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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

Thursday, February 15, 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, we'll now continue with clause-by-clause consideration.

Before we get started, I see we have someone standing, so I'll recognize you. Monsieur Lessard, fire away.

[Translation]

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

I want to introduce a motion to ensure that our proceedings are orderly and also effective from the standpoint of being able to make constructive recommendations to the House of Commons.

We're going to distribute copies to you.

[English]

The Chair: Please wait one moment until they distribute the motion.

Go ahead, please, Monsieur Lessard.

[Translation]

Mr. Yves Lessard: My motion reads as follows:

That the total number of minutes of debate allotted to each member, per amendment and sub-amendment, be limited to at most 2 minutes, and that 2 minutes also be allotted to each member to study a clause, amended or not.

That the committee complete the clause-by-clause consideration of Bill C-257 by the end of today, Thursday, February 15, 2007.

That Bill C-257 be referred back to the House no later than Monday, February 19, 2007.

That the clause-by-clause consideration of Bill C-257 be completed before the committee studies other matters.

That the debate on the motions concerning Bill C-257 be limited to 2 minutes per person for each motion.

Mr. Chair, if you agree to it, I would also like to argue briefly on this motion. This is a motion that respects the order of business of the House which we agreed upon amongst ourselves and according to which we were to complete our business at 5:30 this evening. In view of the current state of affairs and the delays caused by yesterday's debate, we would like to take the necessary time today to finish consideration of all the clauses before the end of the day, that is before midnight tonight. If by chance we finish earlier, so much

the better, we can each of us move on to other things, but that's the very basis of this motion.

The purpose of this motion, I repeat, Mr. Chair, is to make the business that we have conducted here something constructive and that will be consistent with the expectations the House of Commons had when it directed us to study Bill C-257 on second reading.

Thank you, Mr. Chair.

[English]

The Chair: Is there any debate?

Ms. Yelich.

Mrs. Lynne Yelich (Blackstrap, CPC): Mr. Chair, I don't know how anyone can decide how many minutes each clause is taking. This is a very serious bill. It involves, I think, a lot of work and scrutiny. The way the bill was debated yesterday was no fault of ours. As you could see, there was confusion as to the way the amendment had been proposed or brought forward, so I don't see that we can ever limit time on clause-by-clause. I don't think I've ever heard of this before. Has this been done before? I'd be very surprised if we could do this.

•(1545)

The Chair: I'm not sure you want to know the answer to that question. I'm not sure you'll be able to handle the truth—Bill C-24, as a matter of fact.

Mrs. Lynne Yelich: We're trying to represent a very serious bill here, trying to find the best way to make this bill work. I think it's going to take more than two minutes per clause. However, I could be wrong.

The Chair: Thank you, Ms. Yelich.

I have Mr. Brown on the list. Go ahead, Mr. Brown.

Mr. Patrick Brown (Barrie, CPC): Mr. Chair, I don't think we should support the motion put forward by Mr. Lessard, because it leaves open other doors. If we're not done by midnight and we're still working on this, do we come back tomorrow? Do we come back on Saturday? Do we come back on Sunday? Certainly I think we want to make decisions when we're all focused on what's at hand. We don't want to be worrying about other issues—who has to go where or if there's a plane or a riding event. Certainly I think everyone here is willing to stay as long as required. We'd hate to see ourselves working at 11:30 at night, arguing on legislation, when we can simply meet next week and continue to do this in the selected committee time. I realize everyone can make rearrangements. But to simply pass a motion to say we cut it off at 12 o'clock I don't think is going to put us any further ahead. We'll probably still come back Tuesday.

I think it's better that we work within the designated time periods. Obviously we're all allowed to debate this as much as we'd like, and I think we need to be cognizant of that. Given the obligations everyone has in their own ridings, it may be more appropriate to continue within the agreed schedule for these meetings.

We've had these discussions before about when the committee meets, and realizing the extra workload we have in this committee, we've agreed to meet three times a week. Compared to other committees, I think we're showing significant effort to recognize the heavier workload.

My question, which I hope Mr. Lessard could answer, is this. What if we're not done at 12 o'clock? What is the next step? Are you suggesting we meet until 12 o'clock tomorrow too and on Saturday? That's something that I think you're going to need to give us some guidance on, if you want to steer away from what we've agreed upon in these three days when we meet.

The Chair: Thank you, Mr. Brown.

We're going to Mr. Savage, followed by Mr. Lessard.

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

This is a fairly dramatic motion and a change in the way the committee had planned to do its work. I'm prepared to listen to more debate. I just want to ask that we have a five-minute break for each of the parties to have some caucus and determine a position before the vote takes place.

The Chair: Most definitely. We could certainly do that.

Mr. Lessard and then Ms. Davies.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, if we keep a break, I don't see any problem in that, but I simply want to say that that answers the question Mr. Brown asked: what happens if we haven't finished at midnight? That's why I'm going to wait until he is with us, with your permission, of course.

We aren't the first committee that has set itself guide posts for a bill. This has happened for very important bills, again recently, from the moment one of the parties wishes, for its own reasons, to stretch out the debate.

The committees of Parliament operate on the same principle as the House, that is by majority order. However, when you study the history of the formation of the committees, you discover that the purpose of that was precisely that, at some point, a majority order would decide, determine the progress of business.

That could have happened to any party. Sometimes, for our own reasons, we may adopt a certain type of behaviour, but it is always the majority that determines the order. In the matter before us, Bill C-257, the debate has been underway for a number of months and even years.

The Conservative Party, like a number of witnesses, has reminded us that this is the tenth time we've introduced this bill. Virtually everyone has repeated their positions. We ourselves have debated them here. We are at the clause-by-clause consideration stage, and we have identified those clauses very specifically. We would be deluding ourselves if we said that our positions would change if we continued the debate for another 20 hours.

If there are minor distinctions to be drawn, no matter how minor, we can easily make them in two minutes, and that requires us to rely on each other's intelligence. It also requires us to summarize our remarks very clearly.

That is why this order, which we want to see adopted here by the committee, is consistent with the interests of the House of Commons and the parties involved.

We have obligations as parliamentarians. One of those obligations is to report on our proceedings. At the rate we're going, we won't be able to report on our proceedings and we'll even undermine those proceedings for the consideration of other bills.

I would remind you, since I've said it, that the Minister of Human Resources and Social Development has called on me personally to ask whether I was prepared to collaborate, cooperate, so that we could expedite our consideration of Bill C-36. We will do so; I told him, yes. However, if we are put in a situation such as the one we've been in since yesterday, we can guarantee nothing, and I don't understand the way the Conservatives want to work when they act in this manner. However, I won't criticize them for that because they have their prerogatives, but I nevertheless want the majority of this committee to determine how it intends to conduct its business so that it is constructive.

● (1550)

[*English*]

The Chair: Thank you, Mr. Lessard.

Ms. Davies.

Ms. Libby Davies (Vancouver East, NDP): I'm going to support the motion. The basis on which I support it is that I feel we've gone through a huge amount of discussion at this committee about how to handle this bill. Members will remember that we actually sent to the steering committee the question of the timetable and how we wanted to handle this bill. The steering committee came back with a schedule and a timetable and clearly laid out that we do clause-by-clause yesterday and today, and then we would move on to the next bill, which Monsieur Lessard has referred to. That was adopted by the whole committee. We all agreed to that. I felt at that point there was some buy-in by everybody that this was what we were going to stick to.

It became clear that wasn't the case on Tuesday and Wednesday, because the Conservative members are intent on moving another motion, which is basically to derail the bill now and have it shut down at this point. We've already debated that, and so I'm going to debate it again, but I think this motion is in order.

We're talking about eight hours potentially. It's a three-page bill with three clauses. I don't think it's unreasonable that we should be able to get through it if we are actually focused on doing the clause-by-clause rather than everything else that some members want to get into. I think it's a reasonable thing to get through this today and have it reported back to the House, as we agreed, all of us unanimously, on the schedule.

The Chair: Thank you, Ms. Davies.

I have Ms. Yelich, followed by Mr. Lake.

Mrs. Lynne Yelich: I don't think we're disagreeing that we can stick to the timetable. We're disagreeing on limiting it to two-minute rounds. I like Mr. Savage's words. It's a "little dramatic" if we have to start having the clock stop at two minutes. Sometimes our brightest things are said after the two minutes, not during the first two minutes. I think maybe you should reconsider that a two-minute limit is being a little bit fettering. I would like to have it unfettered.

• (1555)

The Chair: Thank you, Ms. Yelich.

Mr. Lake.

Mr. Mike Lake (Edmonton—Mill Woods—Beaumont, CPC): I find it interesting that we would limit to two minutes when I'm not sure if there's been one question asked in this entire committee during this entire process that's been under two minutes. I think it seems quite limiting. We need to carefully consider these amendments, and sometimes that's going to take more than two minutes. Sometimes you're going to say something at one point and someone else is going to clarify it, and you're going to have a dialogue, and that may lead to more questions. I certainly think it's unreasonable that we would limit to two minutes, not to mention the other timelines that are tied into here that Mr. Brown referred to a little bit.

I am interested, though, in Mr. Savage's point. Perhaps we need to take five minutes right now, talk a little bit among our own caucuses. This is out of the air, so I'd like to have some time to talk with my colleagues. I'm sure everyone on the other side of the table would like to do the same thing. I guess Libby would have a little bit of difficulty with that, but I'd like to take a little bit of time and consult.

The Chair: If there's no more discussion, we'll break for five minutes and we'll come back and have a vote.

• _____ (Pause) _____

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• (1605)

The Chair: Okay, we're going to get started again.

Mr. Silva.

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

In the spirit of cooperation, it is really our goal that we do go clause-by-clause through the bill and finish the bill as soon as possible. I realize that the committee has fully scheduled meetings and hearings and has other bills and priorities to look at, so at this time we would ask Mr. Lessard to withdraw his motion, that it might be premature. We're hoping that everybody from all parties will cooperate and go for clause-by-clause. However, if we find that in fact the meeting is being in any way, shape, or form filibustered, and that we're not getting clause-by-clause done, then this motion will in fact be reconsidered and we will be supportive at that time if it's brought up again on Tuesday.

The Chair: The question is, does Mr. Lessard want to withdraw the motion, and if he does, we need unanimous consent from the committee.

So the question is, Mr. Lessard, do you want to withdraw the motion at this point in time? If you are interested, then we'll need the unanimous consent of the committee.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, I of course introduced this motion reluctantly because I'm always the first one to favour debate. We were forced to introduce this motion because of the manner in which the proceedings were being conducted here.

I'll tell you right away that I'm open to the idea of withdrawing my motion, but I'd like to hear from the Conservatives in order to know whether they are prepared to conduct the clause-by-clause consideration. If we were to fall once again into the same dynamic as yesterday, that would be quite annoying.

Do they want to talk about this matter immediately? Otherwise I'll make a decision.

[*English*]

The Chair: Thank you, Mr. Lessard.

Mr. Lake.

Mr. Mike Lake: You want to know basically if I'm going to choose to talk about my motion from earlier, from yesterday, or if we'll go straight to clause-by-clause right now. We'll go to clause-by-clause. We'll wait on the other, and we'll vote, obviously, in favour of your withdrawing the motion.

The Chair: I'll put the question to the committee then. Do we have unanimous consent to withdraw this motion that's on the table right now?

An hon. member: Agreed.

The Chair: Ms. Lavallée.

[*Translation*]

Mrs. Carole Lavallée (Saint-Bruno—Saint-Hubert, BQ): Mr. Chair, I want to ensure that, when we say we are going to proceed with the clause-by-clause consideration, it is a full consideration, not merely consideration of the first, second or third clause. It must be complete clause-by-clause consideration, right up to adoption of the report. I want to be very certain of that.

•(1610)

[*English*]

The Chair: Mr. Lake.

Mr. Mike Lake: I can't promise you...I don't know how the discussion is going to go from here on in, so we have to get to the first clause before we can see where the discussion is going to go. I'm telling you right now that I'm not going to bring up the motion that I was talking about yesterday at the beginning of the meeting. We'll see where things go from there. That's all I can say to you right now. I can't foresee what's going to happen in the next 40 minutes, but we can spend the next two hours debating this motion if we want. I'd say let's withdraw it and let's get on with things.

The Chair: Okay, so I'll pose the question again. Do we have the unanimous consent of the committee to withdraw this motion at this particular time?

Some hon. members: Agreed.

(Motion withdrawn)

The Chair: Let's move into clause-by-clause then.

We have a second proposed new clause by the Liberals on pages 3 and 4. The question is, Mr. Silva, do you want to move this clause at this time?

Mr. Mario Silva: No, I will not be moving that.

The Chair: There are no further amendments to clause 1, so the question I'm going to put to the committee is shall clause 1 carry the way it is read in the original format?

Are there any additional comments? Mr. Lake.

Mr. Mike Lake: I just have a question. We have pages 1, 2, and 3 here. This is my first time going clause-by-clause in any bill, so I will have some questions as we go through them. What are 1, 2, and 3 in our package? What are they referring to? Are 1 and 2 the original? Can you please clarify.

Mr. Mario Silva: I'm not moving them, so—

The Chair: They're not on the table right now. He didn't move them.

Mr. Mike Lake: You're not going to move any of them. Okay.

The Chair: So my question is, shall clause 1 carry as it was written in the bill originally?

Mrs. Lynne Yelich: So we're going back to yesterday, when we thought we passed clause 1, right?

The Chair: No, we didn't. We only dealt with the first amendment, which was withdrawn.

Mrs. Lynne Yelich: And now this is—

The Chair: The second amendment that was on your package has not been presented, so we go back to the bill the way it was written, and we are going to vote on clause 1 as is.

Mrs. Lynne Yelich: And there were no changes from the original legislation at that time.

The Chair: No.

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

(Clause 1 agreed to: yeas 7; nays 4)

(On clause 2)

The Chair: Does Mr. Silva wish to move page 5, which is the Liberal motion 3?

Mr. Mario Silva: We're not moving page 5 at all, nor page 6.

The Chair: So we're not going to move amendment 3, which is on page 5. We're not going to move amendment 4, which is on page 6.

We'll go to the next amendment, which is the NDP-1, which is on page 7.

Ms. Davies, do you want to move that motion at this time?

Mr. Mario Silva: Before that, I think we needed to move the Liberal amendment for proposed subsection 94(2.1) where it says "For the duration of a strike or a lockout".

•(1615)

The Chair: We need to have the amendment. What is the amendment?

Mr. Mario Silva: It's just a clarification, Mr. Chair. It says "Subject to section 87.4".

The Chair: Whereabouts?

Mr. Mario Silva: Right after proposed subsection 94(2.1), it should say "Subject to section 87.4, for the duration of a strike or lockout". It's just a clarification.

The Chair: "Subject to section 87.4".

Mr. Mario Silva: "Subject to section 87.4, for the duration of a strike or lockout declared in accordance with this Part". It becomes very clear in relation to that part.

The Chair: Okay, so that becomes line 15.

Mr. Mario Silva: There has been some confusion about the whole issue around the maintenance of activities and essential services. We want to make sure that it refers back to part I of the Canada Labour Code, which deals with the issue with section 87.4.

The Chair: In front of proposed subsection 94(2.1), line 15 in clause 2, we add "Subject to section 87.4", just before "for the duration of a strike or lockout".

Mrs. Lynne Yelich: So section 87.4.

Mr. Mike Lake: Is it proposed paragraph 94(2.1)(c)?

The Chair: No, it's proposed subsection 94(2.1), right after proposed subsection 94(2.1) on line 15. You'll see the line numbers in the centre of the page.

Mrs. Lynne Yelich: I would like an explanation of that. He says that it goes back to part I of the Canada Labour Code. Does he mean it's subject to that? I just want a little more clarification.

The Chair: I'd like to thank Mr. Silva for the motion.

I just need to remind the member that this committee passed a motion that all amendments would be in by noon on Wednesday. This is not one we had before us.

I would ask the committee, though, because it is a bit of housekeeping, if they would consider unanimous consent. That is the only way we can add any additional amendments that are here at this time.

Mr. Silva.

Mr. Mario Silva: On a point of order, Mr. Chair, I want to also refer to the *House of Commons Procedure and Practice*, where on page 652 it clearly states: "Although a member who intends to move amendments to a bill does not have to provide notice, the normal practice is for the member to communicate with the Chair and clerk". But they don't have to provide notice for their amendments. That is in the procedural rules.

The Chair: Hold on one second.

Go ahead, Mike.

Mr. Mike Lake: I just want to clarify this, though. Did we not move a motion in a previous meeting that actually did set out a timetable for these amendments to be presented?

The Chair: For amendments, that is correct. Just give me one second, please.

Although I wanted to make reference to the fact that it was a motion we carried, I believe this is administrative, so I'm going to let the ruling stand and we can add that and we can have some debate on whether that—

•(1620)

Mr. Mario Silva: I can clarify things a little bit, Mr. Chair.

If you look at proposed paragraphs (a), (b), and (c) in proposed subsection 94(2.1), proposed paragraph (c) says "subject to section 87.4". So all I'm doing is referencing right at the beginning so everybody is clear that all of these provisions are subject to section 87.4.

The Chair: All right.

And once again, I want to mention that we will need unanimous consent to add any additional motions. I believe this is administrative in nature, so I'm just going to say let's have a conversation on it.

Ms. Davies.

Ms. Libby Davies: Mr. Chairman, if that's the way you're going to rule beyond this one, because you considered this one administrative, I would point you to page 874 of Marleau and Montpetit, where it says:

Motions to amend a clause of a bill do not require notice. As a practical matter, proposed amendments are usually forwarded to the clerk of the committee before clause-by-clause consideration begins.

That's obviously what we all endeavoured to do. We did endeavour to get amendments in.

And that indeed did happen.

The proposed amendments received by the clerk are usually circulated to members prior to the beginning of clause-by-clause consideration, for information purposes. At this stage, the amendments are not formally before the committee and the member may move them or not when the committee reaches the appropriate place in the bill.

Mr. Chairman, I've been on many committees, and the fact is that even if you're reading from something that was sent in, often there are subamendments that come from another party, as a result of something that's been written, that may change something—a subamendment or an amendment—and that's always in order.

So yes, it's very clear that the usual procedure is to send them in, in advance, for information purposes, but it does not preclude members at the committee from making an amendment from the floor verbally, as long as it's clear; and if there needs to be clarification, obviously we will take time to do that. But it's perfectly in order beyond an administrative matter.

The Chair: I'll just point out again that any subamendments can come from the floor at any time, obviously, to make recommendations on amendments. It's just that, once again, the committee passed a motion that amendments would be in by Wednesday. I believe this is administrative in nature. It doesn't change anything; it clarifies. When we get to that stage, we'll have to have a conversation again on that, but I don't believe at this point in time that it's much of a concern.

Go ahead, Mr. Silva.

Mr. Mario Silva: Mr. Chair, I believe that both I and Ms. Davies have already stated what's in the rules of procedures of the House. Whether it's administrative or not, the reality is that it is for practical purposes, it states here to have the motions in advance. Notwithstanding that, members still have a right. That's why we do clause-by-clause. The purpose of going clause-by-clause is so that you can see if there is something that should be there or not there, and at that time you can make the decision. That's why the rules state that. It's a practical matter to have the amendments in advance, but it's not necessarily so, even notwithstanding whatever the decision might have been on the rules from the committee.

The Chair: Thank you.

Go ahead, Ms. Yelich.

Mrs. Lynne Yelich: We won't have any problem with that. I think you should just—

The Chair: Then I will just ask the question on this particular addition.

Are we all in favour, then, to add what Mr. Silva said? It was to add on line 15, right after "(2.1)": Subject to section 87.4

...and then continue:

for the duration of a strike or lockout

and so on. That's the motion on the floor.

Mr. Mike Lake: I do want clarification on that. Is it after the bold part there in the bill, the subsection—

The Chair: It's after "(2.1)", before the paragraph starts.

Mr. Mike Lake: Okay, so after the bracketed "2.1" it will be "Subject to section 87.4", and then everything—proposed paragraphs (a), (b), (c.). Okay.

The Chair: Once again...well, I'll read it as many times as you need.

It's "2.1" in brackets; then we're adding "Subject to section 87.4" before the paragraph continues on to say, "for the duration of a strike or lockout", and so on. Is that correct?

Is there further discussion?

(Amendment agreed to)

• (1625)

The Chair: We will now go back to Ms. Davies. You had on page 7 an amendment that you would like to read for us, Ms. Davies.

Ms. Libby Davies: Before we do that, I believe Mr. Silva has another amendment that would come before that. My deletion concerns proposed subsection 94(2.4) on page 3, but I believe he has an amendment that deals with lines 6 to 10 on page 3, which would precede that. It is to actually replace proposed subsection 94(2.4), so I won't move my deletion because he has replacement wording.

Mr. Mario Silva: Mr. Chair, my amendments deal with substitutions for proposed subsection 94(2.3) and proposed subsection 94(2.4).

Mrs. Lynne Yelich: Is that saying, Ms. Davies, that you're withdrawing it? Can I just take it like this and rip it up, and we won't have to look at it again?

Mr. Mike Lake: Oh, you're withdrawing it. Okay.

The Chair: Mr. Silva, I believe that yesterday you wanted to add a proposed paragraph 94(2.1)(h). We want to carry this sequentially, so we should probably deal with the proposed paragraph 94(2.1)(h) before we get into proposed subsections 94(2.3) and 94(2.4).

Mr. Mario Silva: No, Mr. Chair; just to be clear, there's no amendment before you for a proposed paragraph 94(2.1)(h), so that is not the question. It's off the table.

The Chair: Okay. Thank you very much.

Mr. Mario Silva: If you want to do proposed subsection 94(2.1) and carry it, then you can move on to proposed subsection 94(2.2).

The Chair: No, we carry all of clause 2. We have to finish up with the whole of clause 2.

In terms of amendments presented to us, I have NDP-1. If there's a new one, we're going to have to see it in writing so that we can circulate it to the members. We'll have to see that.

Do you have a copy?

Mrs. Lynne Yelich: This is an NDP motion.

The Chair: No, this is a new Liberal motion.

Mrs. Lynne Yelich: What does this replace so far?

The Chair: We'll find out in a second.

Mr. Mario Silva: It replaces the present proposed subsection 94(2.3).

The Chair: Okay, we're going to suspend for five minutes while we have a look at proposed subsection 94(2.3). People will have a chance to have a look at it and discuss it.

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_____ (Pause) _____

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• (1640)

The Chair: Mr. Silva, now that you've introduced the motion, I would ask you to read the motion into the record and maybe talk to it a bit in terms of your thoughts on it.

Mr. Mario Silva: Thank you very much, Mr. Chair.

Presently, as you know, proposed subsection 94(2.3) speaks about protection of property. I am asking that lines 2 to 5 on page 3 be changed to the following:

does not have the effect of

(a) preventing the employer from taking any necessary measures to avoid the destruction of the employer's property or serious damage to that property; or

That's already in the language of proposed subsection 94(2.3) anyway, but this adds a further paragraph (b), which says:

(b) exempting the employer, the trade union and the employees in the bargaining unit from continuing to supply

—the new phrase—

essential services, operate facilities or produce goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public.

The Chair: You've read the motion. Do you want to talk to it a bit?

Mr. Mario Silva: No. I'd like to move the motion.

The Chair: Well, there'll be some discussion. He's moving the motion.

Mr. Harvey.

[*Translation*]

Mr. Luc Harvey (Louis-Hébert, CPC): I have always owned a business and I've always worked in the private sector. This is the first time I've worked for the public sector.

I read this amendment, and I find it hard to understand how you can introduce that, particularly if you consider paragraph (a). It reads as follows:

(a) preventing the employer from taking any necessary measures to avoid the destruction of the employer's property or serious damage to that property;

What is meant by the word "serious"? Does it mean setting fire to the building? Are we talking about vandalism? Any intrusion into a place belonging to the business is utterly prohibited. It's impossible, it's against the law.

At a minimum, it should be said that any destruction of or damage to that property is prohibited, not only in serious cases. Otherwise you're authorizing minor offences. I don't believe the Canadian government is in a position to authorize the commission of minor offences within the facilities of a business, even if there is a strike. That's prohibited, regardless of the situation.

The second point appears in paragraph (b). Once again, I can't believe it. We're talking about maintaining certain essential activities and services. When it states "essential", what does that mean? Breathing is essential. We can't allow anyone to touch certain essential aspects of a business. Furthermore, it's not necessary that that be related to public safety or the public. If you go into an aluminum plant and you cut off the electricity, it will take about a year and a half for the plant to recover as a result of the damage caused.

I believe that everyone here should work to advance the country's economy, should work to improve the working environment. I believe we are headed in the opposite direction from where we want to go. That's unacceptable, and I can't get over it.

Thank you, Mr. Chair.

[English]

The Chair: Thank you, Mr. Harvey.

Ms. Davies, Mr. Lake, and then Mr. Savage.

Ms. Libby Davies: Thank you very much.

I do support the amendment and I'd like to point out why. I really believe this amendment that has been put forward by the Liberals is a helpful clarification to reinforce what is already in the Labour Code.

If you read proposed subsection 94(2.3), that's already in the bill before us. It's basically adding one word, which is "or". The clause is already there. Then there's a new clarification under proposed paragraph 94(2.3)(b). This makes it clear that the employer, the trade union, and the employees in the bargaining unit are able to continue with essential services.

In the Labour Code under section 87.4, there is already a provision for essential services. It's called "Maintenance of activities", and it spells out that there can be continuing operations to prevent an immediate and serious danger to the safety or health of the public. Mr. Silva's amendment is really intended to clarify that this bill is reinforcing what is already in the Labour Code, by spelling out essential services.

Some of the Liberal and other members expressed concern that there was not an adequate provision or process to deal with essential services. Unfortunately, Monsieur Harvey was not here when we had the technical briefing, but there was very careful questioning of the officials.

The existing Labour Code does spell out a process for essential services and the maintenance of services. It's done on a case-by-case basis, and the Canadian Industrial Relations Board builds up a jurisprudence of what they understand to be essential services. That's well established, and no one is trying to change that. This amendment is simply trying to reinforce that the process exists in the current Labour Code and will continue to exist. This amendment is a helpful clarification to satisfy some of the concerns put forward that we are dealing with essential services and allowing them to happen, as spelled out in the code.

•(1645)

The Chair: Thank you, Ms. Davies.

Mr. Lake.

Mr. Mike Lake: Yesterday I made a comment that I thought the opposition was taking ad hoc to a new level in this committee. Today I believe we're adding a second essential services clause to a bill that already has an essential services clause—I'm not sure.

Can we have some comment from the department officials here or the legislative clerk? Is there not a clause in the current Labour Code that already deals with this?

The Chair: Ms. MacPherson.

Ms. Elizabeth MacPherson (Director General, Labour Program, Federal Mediation and Conciliation Service, Department of Human Resources and Social Development): As one of the members has pointed out, section 87.4 is a provision of the current statute that deals with maintenance of activities. Some of the language in the proposed amendment mirrors the language in section 87.4, although it does add an additional qualifier word that does not exist in the current section. The proposed amendment introduces the concept of essential services, and the word "essential" is not used in the current section 87.4.

The Chair: Mr. Lake.

Mr. Mike Lake: Is it a normal process in changing or amending legislation to have repeat clauses like this? To the legislative clerk, is this a sort of end run? Does this contravene the rules of private member's business, or is this in line with the rules?

Ms. Ruby Dhalla (Brampton—Springdale, Lib.): Mr. Chair, on a point of order, I know that the legislative clerk is providing you with advice for you to be able to come back to the committee. If you wouldn't mind, if it's okay with you, could the legislative clerk also allow us to know the answer to the question that was posed, just so that it doesn't get lost in translation, with all of his expertise.

Thank you.

•(1650)

The Chair: Sure.

Mr. Marc Toupin (Procedural Clerk): Well, essentially I have to concur with Ms. MacPherson. I have before me a copy of section 87.4 of the Canada Labour Code, and I do not see the words "essential services" referenced in the Canada Labour Code.

I think it becomes a question perhaps for the committee to decide as to whether or not that is a scope issue—whether or not this is really going beyond the scope of Bill C-257 by introducing the notion of an essential service.

Certainly the words that are used following the expression "essential services", when it talks about "operating facilities or produce goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public", are referenced essentially word for word in section 87.4. I think in subsection 87.4 (1), which I have before me, they use the word "and", "immediate and serious danger to the safety or health of the public", and I think that's what we have in the amendment being put forward by Mr. Silva.

I don't know if that helps, Mr. Chairman.

The Chair: Here's who I have on the list: Mr. Lake, Mr. Savage, Mr. Silva, Ms. Yelich, Mr. Harvey, Ms. Dhalla, Ms. Davies.

Mr. Lake.

Mr. Mike Lake: Back to my question about normal practice, is this normal practice? Are there other places in the Labour Code where we have the same clause in two different places? Is this a normal way of amending legislation? You can maybe answer that.

Secondly, the question we've had, with specific examples, throughout our committee meetings—and I'm wondering if this addresses that—is does this change the fact that telecommunications, for example, in the past has been ruled not to be covered under the current section 87.4? Does this change that? In the case of a telecommunications strike or lockout, or work stoppage of some sort, would 911 services be protected under this legislation? What's the history?

Ms. Elizabeth MacPherson: To answer your first question, which is whether this is standard practice, it's not uncommon to see one section of the code referenced elsewhere in the code, but it's usually done so by making reference to the specific section, rather than by repeating the section. We see examples of that throughout the code.

With respect to your second question as to whether this would change anything for the board or the interpretation or definition of section 87.4, which is the section that authorizes the board, if the parties cannot agree, to make determinations as to what services must be maintained in the event of a strike or lockout, it's difficult to say how the board would interpret this new word that would appear in this clause vis-à-vis what it's told to interpret in section 87.4.

We do know that, based on the current section 87.4, in the cases that were put in front of it, notably Aliant and TELUS, which dealt with telecommunications, the board felt it had no evidence that those 911 services were essential and therefore did not make a declaration. But I'm unable to predict whether the addition of this word in a different section of the code would give the board different scope, and I defer to the legislative clerk on that.

Mr. Mike Lake: Mr. Chair, I don't have any more questions.

I'll just comment that obviously I can't support the amendment. This just takes us deeper into the bizarre world that we've been dealing with for the last month on this legislation. I have no further comment.

The Chair: Thank you.

I have Mr. Savage, followed by Mr. Silva, Ms. Yelich, Mr. Harvey, Ms. Dhalla, and Ms. Davies.

Mr. Michael Savage: Thank you, Mr. Chair.

I do support this amendment, on the principle that I've stated before: that I do want to see a law that bans the use of replacement workers but does not put Canadian citizens in jeopardy or leave them without essential services.

I feel that section 87.4 does not sufficiently protect Canadians from potential harm by that, so to me the inclusion of the words "essential services", though vague, does provide a whole new element to the bill we're looking at. It means there is a potential that things like telecommunication services would be covered, as—in my view—they should be.

I do have a question for the drafter of the bill, who is my colleague: "exempting the employer, the trade union, and the employees in the bargaining unit from continuing to supply essential services,"—is that a comma? That's a comma, right, and not a period?

• (1655)

Mr. Mario Silva: It's a comma, yes.

Mr. Michael Savage: I don't read that then necessarily to mean that.... You say "essential services, operate facilities, or produce goods to the extent necessary to prevent an immediate and serious danger to the safety or health". So "essential services" doesn't apply just to safety or health, in your interpretation of this?

Mr. Mario Silva: Well, it's referenced back to section 87.4. Right now in section 87.4 we do talk about safety to the public and health. The board has interpreted on numerous occasions that this could also mean essential services, but we're making it very clear that what we're talking about is essential services, so that there will be no confusion.

Mr. Michael Savage: It seems to me essential services apply to more than just safety or health, and I want to make sure in this that there are essential services that may not be safety or health related.

Ms. Libby Davies: May I reply?

The Chair: Go ahead, Ms. Davies.

Ms. Libby Davies: The issue here is that, first of all, the CIRB makes rulings all the time, and in those rulings—I have a whole bunch of them here—they refer to essential services. There's no one definition of essential services; it's case by case.

For example, there's one here involving CN Rail. It was a ministerial referral. It says, "maintenance of activities agreement—essential services—". The board looks at that and makes a determination in each case. In this particular decision they made involving CN, they had 10 references to essential services. There's another one here dealing with the Montreal airport. It has 15 references. Another one I have that involves Atomic Energy of Canada Limited has 60 references to essential services.

There are two points to be made here. First of all, I do not agree with the legislative clerk or Ms. MacPherson that it's outside the scope of the bill to use the words "essential services". It is correct that section 87.4 uses the term "maintenance activities", but the board, in all of its rulings, uses the term "essential services". How they view that may change slightly from case to case, depending on the circumstances, so that's a board determination; you can't spell it out definitively in a bill, because it varies depending on the circumstances, in terms of what are considered essential services.

I still think this amendment before us is indeed a clarification to assure members that there are essential services. There's a provision that's spelled out in the existing code, and the CIRB, when it makes its rulings, deals with that. I've got the cases here to show you that they themselves use the words "essential services", and they make their rulings based on each application before them.

There's no weird stuff going on here. This is a clarification to what already exists so that people are clear on what we're approving.

The Chair: We'll continue on.

I have Mr. Silva, Ms. Yelich, Mr. Harvey, Ms. Dhalla, Ms. Davies, and Mr. Lake.

Mr. Mike Lake: How can you have Ms. Davies again, when she just spoke? Can I have three spots? I'd like three spots.

The Chair: Mr. Silva, please go ahead.

Mr. Mario Silva: Mr. Chair, I think what needs to be said has been said already. I think the important thing is that there were issues of concern relating to essential services. The fact is that the language is there; it spells it out; it's very clear.

As has been mentioned several times, under section 87.4 on a number of occasions the board has ruled and has made decisions about essential services, and has in fact used the same language of "safety or health to the public". Safety and health to the public is extremely broad as well, and gives a lot of latitude for the board to make a decision as well on essential services.

• (1700)

The Chair: Okay, thank you.

Ms. Yelich.

Mrs. Lynne Yelich: Mr. Chair, I really think that to hang this bill on just that word "essential" and say that these three people have decided what essential is.... Have they not heard the witnesses and what they think is essential for this country?

In fact today in question period, Mr. Savage asked a question about competition and where we are in the whole international spectrum. The message, which was loud and clear, was that we will have some serious situations with our international trade if any of the services that are counting on such things as our rail transportation.... And I go back to my province, which specifically depends on rail. We don't like the rail any more than the union that works for them. However, the farmers really do have a difficult time if those two have decided to lock horns, and there is no way they can get their product to the coast. So they are the ones who are expected to settle this strike somehow on the backs of the farmers or the backs of the potash mines, or mining, or whoever depends on these particular....

It may not be deemed essential by these three people, because it certainly does not talk about just public health, but it talks about the international stage and about where we are in international trade. And this is always missing out of this whole bill. It is easy for someone who is only looking at the small picture not to realize that there are many people relying on us to make sure that federally regulated sectors are able to continue their service, make sure there is not a disruption. But if there is the right to strike, and labour has the right to strike, and I think that collective bargaining does protect labour....

I'm thinking we are going to have to broaden "essential" to "critical"—critical for this country, critical for our trades. I think this is missing. And many of us are small farmers, small business people who rely on these essential services.

We can't compare it to the Quebec bill, which continues to be brought up, in which they say that public health and public safety is in that bill. It is not in Bill C-257, and I think we have to make sure it's understood.

These people who have come before us are afraid of this bill, and there are reasons that other provinces didn't adopt it. I would like to hear what the other jurisdictions think of this bill and why they never did consider this legislation. It's because it's legislation that I think just encourages bad relations between labour and the sectors.

I think we have to rethink what.... I really don't know how anyone here can decide what essential services are without going out into the ridings and finding out how many of these people in your ridings—small businesses—rely on these services that would never be deemed essential.

I am just so surprised that we can hear three people decide, back and forth, what essential should mean, when in fact I can tell you what essential means. Essential means livelihoods. The people rely on getting their products to markets. We're an export nation. The provinces export just about everything. In central Canada we export all the time. It's essential to us.

When they want to put in that farmers are an essential service, then I think this bill might be starting to come around to where we are. So moving right along....

Thank you.

The Chair: Thank you, Ms. Yelich.

Mr. Harvey, Ms. Dhalla, and Mr. Lake.

• (1705)

[*Translation*]

Mr. Luc Harvey: I asked him a question earlier, but he never answered me.

What is serious damage? At what point does it become serious?

[*English*]

The Chair: Do officials want to answer that?

[*Translation*]

Mrs. Carole Lavallée: Mr. Chair, that's because there has previously been a lot of discussion and debate. Representatives of the Canadian Industrial Relations Board came here and explained all that. Perhaps you could ask your researchers.

Mr. Yves Lessard: I'll answer that in a moment, Mr. Chair.

Mrs. Carole Lavallée: No, let him ask his researchers. Come on!

[*English*]

Ms. Libby Davies: That's why we have a board to decide that on each case. Be different; do your own research.

The Chair: Next is Ms. Dhalla, followed by Mr. Lake and Mr. Silva.

Ms. Ruby Dhalla: I have a question for the legislative clerk.

You said it's up to the committee to determine whether this is beyond the scope of the legislation before us, so are you then saying it is up to the committee to make that decision? As my colleagues on this side have also stated, I do believe that having this amendment in the bill is going to provide clarity. It's also going to perhaps appease the individuals who had apprehensions about this bill...to talk about some important issues. So I would definitely support this amendment going forward.

I think this is an important piece of legislation, and as my colleague Mr. Savage said, I also completely support in principle the idea that we must ban replacement workers. However, we must also ensure that we address the issue of essential services.

So with your expertise, would you say it is up to our committee to make that decision? If it is, then we could perhaps have a motion of that sort put forward by one of us.

Mr. Marc Toupin: I would simply say, Mr. Chairman, with all due respect, that the decision concerning the admissibility of this amendment is made by the chair. If the chair is in doubt as to whether the amendment is admissible, he can consult committee members if he so wishes. If he's clear that the amendment is out of order, he can rule that way; if he's not, presumably he'd give the benefit of the doubt. But it's the chairman's call.

Ms. Ruby Dhalla: I would say that we've heard from many different stakeholders and I think it is extremely important going forward that this amendment, which perhaps clarifies in regard to essential services, be incorporated into this bill.

The Chair: Thank you.

Next is Mr. Lake, followed by Mr. Silva and Mr. Savage.

Mr. Mike Lake: Actually, Ms. Dhalla just asked the question I was going to ask, but I'd like to know at this point if we can get a ruling on the admissibility right now.

The Chair: I would like to hear the rest of the comments and then I'll talk to the clerk again about that.

Mr. Mike Lake: Thank you.

The Chair: Mr. Silva is next, followed by Mr. Savage.

Mr. Mario Silva: I think it's important that the board, made up of three individuals—the neutral chair, somebody from labour, and somebody from the business community—have that flexibility to deem what essential services are. If you narrow the scope, then some other issues might arise as well, issues that are important and are essential under health and safety for the public and that need to be addressed, so you'd need to have the board make those decisions on a case-by-case basis. The provisions are already laid out, but be very clear and specific. That is what we're talking about. The maintenance of activity is essential services. I think that is what is really referenced there.

If anything, it should give comfort, I would think, to a lot of the people in the business community who have some issues with this bill. It does address one component of their concerns.

The Chair: Thank you, Mr. Silva.

Next is Mr. Savage, and then Mr. Lessard.

Mr. Michael Savage: Thank you, Mr. Chair.

I would echo some of what Mr. Silva said. It would seem to me that some flexibility in the definition of essential services, some openness to interpretation, is actually a good thing for business. When you list things, it's the things that are excluded that become problematic.

Ms. Yelich referred to the question I asked in QP today about productivity and competitiveness. I just want to be clear that I was

referring to the gutting of literacy and the unconscionable cutting of student support in that case. It wasn't on this; it was a different issue.

To me, the essential services provision in this bill would allow things like telecommunications services to continue, because it's not just health and safety. Communicating, getting money from a bank machine—those are essential services in the modern day and age. I'm comfortable with Mr. Silva's enlightened amendment, and I hope that it's ruled in order.

Thank you, Mr. Chair.

• (1710)

The Chair: Thank you, Mr. Savage.

The last person I have on the list is Mr. Lessard.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, I second this motion, of course.

Mr. Yelich asked the question as to what an essential service is. An essential service is a broad term and this calls on the judgment of the people who will be responsible for ensuring that it is enforced.

That's why I see a lot of wisdom in the Liberal amendment that has been introduced before us today. We're indeed restating the two elements on which essential services must be based, that is to say health and safety.

Considering that the Canada Labour Code already provides for protective measures for an employer's property during a dispute, we must not wind up either with a provision that makes the economic power relationship an essential service.

As an example, I cite the evidence that has been given here. One piece of testimony was very eloquent. It concerned a diamond mine in the High North the owners of which claim that, if they can't get their diamonds out, that will cause major economic difficulty at the mine. However, I would point out to you that that's not an essential service. If that's what we want to cover, know that this isn't an essential service. Let's be clear on that.

The mine argument means that, if there is a truckers' strike, it won't be able to get its diamonds out. However, if the truckers do strike, those same truckers who won't be able to get the diamonds out will still be able, in the High North, to bring in the foodstuffs needed to feed the population. That will be the same strikers. Why? Because the health and safety of the public will be at stake.

Let's remember the example that was cited to us: the winter ice bridges. We were told that, if a strike occurs when the ice bridges are up, people are unable to pass during that period. The whole time, people talked to us about diamonds, never about food, health services and so on.

In my opinion, health and safety services cover very well what is meant by essential services. On that point, we should pay tribute to the Liberals for tabling this amendment, which effectively addresses the concern expressed by the Conservatives and by a certain number of speakers at this table. It's also a reflection of what there is in the provinces, in, among others, Quebec and British Columbia, from where the notions of essential services based on these two pillars have just been communicated to us.

I'll stop there, Mr. Chair. Thank you.

[English]

The Chair: Thank you, Monsieur Lessard.

Could you just give me a second?

- _____ (Pause) _____
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The Chair: I have a question for our expert witnesses at the back here. We didn't use you at all in the first couple of days here; now you're getting lots of work.

There have been conflicting concerns on both sides of my question, and I think even Mr. Lessard said this is very broad in terms of its nature. We know essential service is not referenced in section 87.4; there's no definition there to give us an idea of what that would be. Would this possibly, then, expand the board's decision-making ability to consider other things, because there is no definition of "essential services" in section 87.4 at this point in time?

• (1715)

Ms. Elizabeth MacPherson: Mr. Chairman, with the greatest of respect, our analysis is that putting the word "essential" into this clause might in fact limit the scope of section 87.4. The reason, if I can follow through the logic, is that currently the analysis that's done by the board is of whether the service is "necessary to prevent an immediate and serious danger to the safety or health of the public"; introducing the concept of "essential" means that the board would have to find that a particular service was essential to prevent an immediate and serious danger to the safety or health of the public. It turns on your interpretation of whether there is a difference between something that's necessary and something that's essential.

The Chair: Thank you.

Ms. Libby Davies: I have a point of order.

The Chair: We have two at the same time. Go ahead, Ms. Davies. You will be followed by Ms. Dhalla.

Ms. Libby Davies: I really feel we're splitting hairs here, because the amendment does clearly say "to prevent an immediate and serious danger to the safety or health of the public". As I have pointed out, numerous rulings from the board—and I would ask Ms. MacPherson if she disagrees—use the term "essential services", sometimes 60 times in one ruling, or 15 times, and the interpretation they give will vary from case to case.

This amendment is not narrowing it, nor is it broadening it. It is simply further defining that maintenance of activities and essential services are things that are considered by the board, as we can see from their ruling. I really fail to see how you could interpret this to mean that somehow this will actually narrow what the board can do, because, by the jurisprudence that's built up, it's very clear that they already have this leeway to deal with essential services and maintenance of activities. This amendment will not change that in any way.

The Chair: Do you want to respond to that, Ms. MacPherson?

I have Ms. Dhalla after that, followed by Madame Lavallée.

Ms. Elizabeth MacPherson: Ms. Davies is right, and as recently as the most recent decision of the board, which is the case of Nav

Canada, the board itself used the term "essential" or "non-essential" to determine what positions had to continue in the event of a strike or lockout.

It might be helpful to the committee members if I enunciated the principles that come out of the jurisprudence of the board. I know this was of concern to members earlier. These principles are drawn from a decision of the board made in October 2005 in the PSAC and 851791 Northwest Territories case, which I believe was the Fort Liard ferry case.

The board said that section 87.4 is directed specifically towards the prevention of an immediate and serious danger to the safety or health of the public, as opposed to other matters of public interest that might be impacted by a labour dispute, and that mere inconvenience should not cause the board to decide that services are necessary in the interest of public of safety or health. The danger to safety or health of the public must be both immediate and serious—in other words, there has to be a connection between a work stoppage and the immediate and serious danger to the safety or health of the public—and it must be foreseeable.

• (1720)

Ms. Libby Davies: How does proposed paragraph (b) change that, though? Isn't that what proposed paragraph (b) in the amendment says? It spells it out: "to supply essential services, operate facilities, or produce goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public". That's what the amendment says.

Ms. Elizabeth MacPherson: Yes, but there are two ways that could be interpreted. It could be interpreted as you are doing, but it could also be interpreted as meaning that the services necessary to prevent an immediate and serious danger to the health or safety of the public can only be "essential" services, as opposed to whatever else the board might find is necessary to prevent an immediate and serious danger. I think it's capable of two interpretations.

The Chair: Let's follow the list here. I have Ms. Dhalla, followed by Madame Lavallée.

Ms. Ruby Dhalla: Ms. MacPherson, are you a lawyer with the department?

Ms. Elizabeth MacPherson: I'm the director general of the Federal Mediation and Conciliation Service. We're responsible for trying to prevent and resolve collective bargaining disputes. I do have legal training, however.

Ms. Ruby Dhalla: I think it would be beneficial in this case, as well, to get legal expertise before decisions are made, because having one person's perspective—

Mr. Mario Silva: You can have five lawyers, and five lawyers will give you five different opinions, so it doesn't help very much.

The Chair: Go ahead, Madame Lavallée.

[Translation]

Mrs. Carole Lavallée: You're entirely right, Mr. Chair. A number of lawyers can give differing views on the same situation, and based on the same information.

I only wanted to go back to the information that Ms. MacPherson gave us, that including the expression “essential services” in paragraph 94(2.3)(b) would in a way reduce the scope of “certain activities” as described in section 87.4. I don’t understand you at all. Common sense is first what John Vines, a representative of the Canadian Industrial Relations Board, offered here in response to a very clear question from me as to whether maintaining certain activities meant maintaining essential services.

Reread the “blues”. He answered that that was indeed the same thing and that, moreover, they often interpreted maintaining certain services as meaning essential services. Ms. Davies also gave a number of examples of this earlier.

There’s a second point. Paragraphs 94(2.3)(a) and (b) proposed in the amendment are very interesting. I’m pleased that the Liberals have introduced them. This explains three cases in which the employer can hire staff: first, to prevent the destruction of his property; second, to maintain certain activities that are described in section 87.4; and, third, for essential services.

A summary and normal description is made in a bill because we know that the Canadian Industrial Relations Board can interpret. Let’s leave it its mandate to interpret certain matters. To date, the Canadian Industrial Relations Board has never failed in its duty of interpretation, and no one has ever challenged its interpretations for serious and significant reasons.

Furthermore, I would point out to you that this cannot restrict section 87.4 because paragraph (b) refers to “maintaining certain activities and essential services”. It isn’t just essential services, because the word “and” is used. In my view, even though I’m not a lawyer — fortunately, moreover — common sense dictates that the word “and” means an addition.

[English]

The Chair: Thank you, Madame Lavallée.

Given what I’ve heard in terms of essential services and the issue that it’s not even referenced in section 87.4, I am going to say the motion is out of order.

• (1725)

Mr. Mario Silva: With all respect, Mr. Chair, we can challenge the chair.

Ms. Ruby Dhalla: Before we challenge the chair, I believe when the legislative clerk was—

Mr. Mike Lake: Is the challenge of the chair debatable?

Ms. Ruby Dhalla: I have a point of order that I want to bring up.

When the legislative clerk was speaking to the committee earlier, he mentioned that it would be up to the committee to decide if the amendment was within the scope of the bill. He also said the chair would have to make a ruling, but he did say it was up to the committee to decide.

Mr. Chair, with all due respect, do you think perhaps it would be beneficial if someone brought forward a motion to determine whether we, as committee members who have spent many months analyzing this bill, make that decision collectively and have a vote on it?

The Chair: Thank you, Ms. Dhalla.

Mr. Silva is challenging me. If the committee wants to overrule, we can go that route.

Ms. Ruby Dhalla: Could we go the route I’m suggesting as well?

The Chair: No.

The motion is that the decision of the chair be sustained.

(Ruling of the Chair overturned: nays 7; yeas 4)

The Chair: The chair has been overruled, so the amendment will stand as is.

Now we will have a vote on the amendment as Mr. Silva has put it.

Mr. Mike Lake: Can we have a recorded vote?

(Amendment agreed to: yeas 7; nays 4)

The Chair: Now we are going to move on to amendment NDP-1.

An hon. member: We withdrew that.

The Chair: You withdrew that. Okay, thank you.

Mr. Mario Silva: Mr. Chair, can I circulate the new proposed subsection (2.4)?

The Chair: You can circulate the amendment.

Mr. Michael Savage: Mr. Chair, are we stopping at 5:30?

Ms. Ruby Dhalla: We have flights.

Mrs. Lynne Yelich: I think this is important.

An hon. member: Why don’t we just finish the bill?

Ms. Libby Davies: I’m rearranging my flight and I have to go all the way to Vancouver. I’m going to get in at 1 a.m.

Mr. Michael Savage: Mr. Chair, I move to adjourn.

The Chair: Hold on. We have a motion to adjourn. This is not debatable.

Mr. Michael Savage: Mr. Chair, does the meeting not end at 5:30 unless there is a motion to continue?

The Chair: No, it doesn’t, unfortunately.

• (1730)

Mr. Mike Lake: Oh, it’s not debatable.

The Chair: No.

Mr. Savage has moved that we adjourn for today.

(Motion negatived)

The Chair: Okay, we will continue, then.

Mr. Silva, circulate the motion, please.

• _____ (Pause) _____
•

• (1735)

The Chair: Okay, if we could call everyone back to order here, what I ask Mr. Silva to do is to read the amendment into the record, please.

Mr. Mario Silva: Thank you, Mr. Chair.

I move that Bill C-257 in clause 2 be amended by replacing lines 6-10 on page 3 with the following:

(2.4)(a) The Board, in response to an application from any trade union, employer, association or the minister, may amend any agreement or order established under section 87.4 of the Canada Labour Code to ensure the continued delivery of essential services and maintenance of activities and the Board will render their decision within a reasonable period of time.

(b) Such a decision as noted in this section will have the effect of immediately superseding any previous decision, agreement or order by the Board with respect to section 87.4 of the Canada Labour Code and those employees who are designated as essential resulting from this decision will comply with the decision within a reasonable period of time from the date and time the order is issued.

Mr. Chair, there was a great deal of debate on proposed subsection (2.4) in this committee because there was a great inconsistency between the English and French versions of the subsection. There was also some concern that management was only able to do work in relation to conservation measures. I think (2.3) clarified the one I moved forward, and this would add further clarification.

The Chair: Thank you, Mr. Silva.

I'm going to rule this amendment out of order as well.

Mr. Mario Silva: Can I challenge you, Chair?

The Chair: Most definitely.

Mr. Mike Lake: On a point of order, are we debating it first, or is it debatable after? I don't mean your motion that it is out of order; I'm talking about the amendment in general.

The Chair: We'll debate that after it's ruled.

Mr. Mike Lake: So we're voting to sustain the chair? Okay.

The Chair: The vote here is to sustain the decision of the chair, which is that I've ruled the amendment out of order.

(Ruling of the Chair overturned: nays 7; yeas 4)

The Chair: Okay, my decision has been overturned, so the amendment will stand.

Is there any debate on the amendment? If there's no debate on the amendment, then I call the question. It will be a recorded vote again.

(Amendment agreed to: yeas 7; nays 4)

● (1740)

Mr. Michael Savage: Mr. Chair, can you explain to me the procedure now that the chair's ruling has been overruled? This goes to the House as amended?

The Chair: That is correct. And I would suspect that probably the Conservatives will have a point of order with the chair and—

Mr. Michael Savage: Is that possible? Can you ensure me that won't happen?

The Chair: No, just as I can't assure you that you're going to catch your flight either.

Mr. Silva.

Mr. Mario Silva: Mr. Chair, the only thing that's left is the last.... I guess you want to move part 2.

The Chair: We've got the Bloc motion BQ-1, which now can't be put because you have amended the same lines, so it will have to be not moved.

Mr. Lake.

Mr. Mike Lake: Are we going into clause 3 next? Are we voting on clause 2?

The Chair: We're voting on clause 2 as amended.

Mr. Mike Lake: I'd like to move a motion after that, but I'll do that.

The Chair: All in favour of clause 2 as amended carrying?

An hon. member: Recorded vote, please.

The Chair: It will be a recorded vote.

(Clause 2 as amended agreed to: yeas 7; nays 4)

The Chair: Mr. Lake.

Mr. Mario Silva: We haven't finished the bill. Clause 3 needs to be dealt with. I have my amendment that I was going to put forward.

Mr. Mike Lake: I think I have the floor right now, right?

The Chair: You have the floor right now, Mr. Lake. We've heard the motion, so just read it and we can vote on it.

Mr. Mike Lake: Okay.

I'm going to move a motion. And I guess I do have to read it? I can't just refer to it?

The Chair: We've got to hear the whole painful thing over again.

Mr. Mike Lake: I'm moving this motion:

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, An Act to amend the Canada Labour Code (replacement workers).

I just want to add at the end a reiteration of what I've said the other times I've talked about this, that there would be a second motion that we would have been willing to put forward. I'm not putting forward the motion:

That the committee recommend 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).

That would be the end of the second motion that I would be willing to put forward if the first one passes. I've made my arguments for this motion several times already and I'm not going to bother doing them again.

The Chair: The committee appreciates that.

Mr. Silva, followed by Mr. Lessard.

• (1745)

Mr. Mario Silva: Mr. Chair, we are dealing right now with clause-by-clause for the bill. You can't just bring some other motion dealing with some other matter. Right now, we're still dealing with the clause-by-clause. We've just finished clause 2. We now have to go to clause 3. Then we have to figure out whether this motion, which is totally outside of what we're dealing with with the clause-by-clause, is in order or not. But at the moment, we're only dealing with the bill and clause-by-clause. So we should continue as we've been proceeding thus far.

The Chair: My suggestion would be that we limit debate on this, we vote on it and we move on with the bill.

Ms. Ruby Dhalla: I think we should call the question.

The Chair: I can't call the question as long as people want to keep debating.

Mr. Lessard has a comment. If there are no more speakers, we can call the question when Mr. Lessard is done.

[*Translation*]

Mr. Yves Lessard: Mr. Chair, I contend that this is inadmissible because it's contrary to what we agreed upon.

[*English*]

The Chair: Thank you. It's not out of order.

I will call the question now, and we've got a recorded vote.

(Motion negatived: nays 7; yeas 4)

The Chair: The motion is defeated, which means the next one won't be showing up.

(On clause 3)

The Chair: We're now going to go back to clause 3, and the Liberal motion on page 9.

Are you moving that, sir? Would you read it into the record, please?

Mr. Mario Silva: I move that Bill C-257, in clause 3, be amended by replacing lines 38 to 40 on page 3 with the following:

offence and liable, on summary conviction, for each day or part of a day that the offence continues, to a fine not exceeding

(a) in the case of a corporation, a trade union or an association, fifty thousand dollars; or

(b) in the case of any other person, one thousand dollars.

The Chair: Is there any discussion on this? No?

We're starting to move fast. You can tell it's getting to the end of the day.

(Amendment agreed to)

(Clause 3 as amended agreed to: yeas 7; nays 4)

The Chair: We're into the home stretch, ladies and gentlemen.

Shall the title carry?

Some hon. members: Agreed.

The Chair: Shall the bill as amended carry?

An hon. member: I'd like a recorded vote.

(Bill C-257 as amended agreed to: yeas 7; nays 4)

The Chair: Shall I report the bill as amended to the House?

Some hon. members: Agreed.

The Chair: Shall the committee order a reprint of the bill? It would be a good idea.

Some hon. members: Agreed.

The Chair: Yes, Ms. Davies.

• (1750)

Ms. Libby Davies: I'd like to ask the chair when he intends to report the bill to the House. Will it be tomorrow or Monday?

The Chair: It will have to be amended. As soon as it's ready, I will.

Ms. Libby Davies: So it will likely be on Monday.

The Chair: I assume it would definitely be before we meet again, so yes, probably on Monday.

Mr. Savage.

Mr. Michael Savage: I just want a clarification, because I want to understand what's going to happen. Will this be reported to the House as amended, and will the Speaker then rule if the amendments are acceptable to him?

The Chair: That's correct.

Mr. Michael Savage: In the event that he rules that they aren't, which is unimaginable, what follows after that? Can I ask the clerk.

The Chair: First of all, we'll need to raise it as a point of order, which I assume we would, and then the Speaker will have to rule after that.

Mr. Michael Savage: What are the options?

The Chair: I would suggest that the Speaker will decide that the amendments will stand as they are. He will say they're out of order and they will, I would assume, go back to the.... We'll have to see what the Speaker says.

Mr. Michael Savage: Could they come back to this committee?

The Chair: That's always a possibility.

The meeting is adjourned.

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