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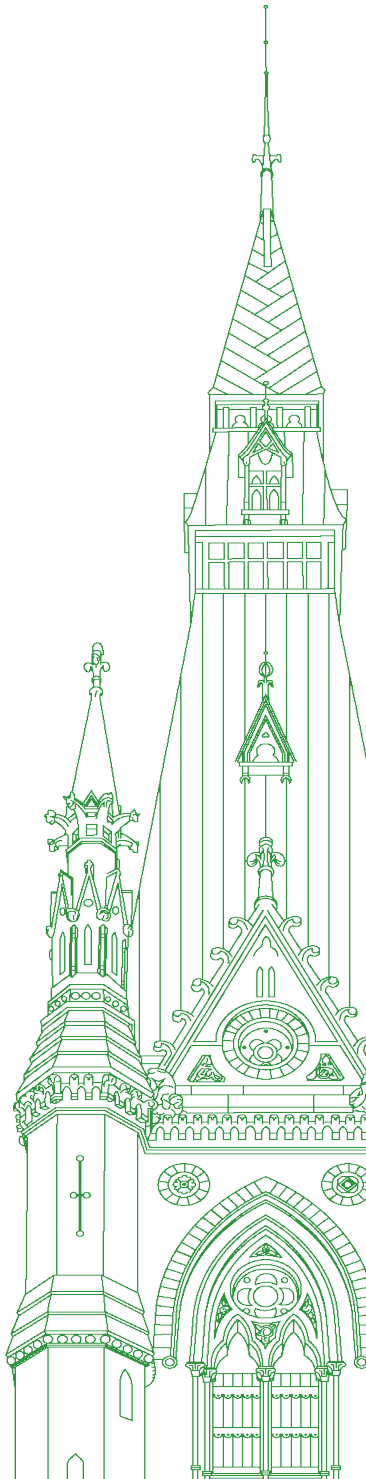

Chair: Mr. Robert Morrissey

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

Thursday, April 18, 2024

● (0815)

[*Translation*]

The Chair (Mr. Robert Morrissey (Egmont, Lib.)): I call the meeting to order.

[*English*]

Welcome to meeting number 109 of the House of Commons Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities.

Today's meeting is taking place in a hybrid format, although all of the committee members and witnesses are here in the room.

I will go over a couple of comments.

You have the option to speak in the official language of your choice. Interpretation is available using the headset in front of you. Click on the language you choose to participate in.

I will ask you to keep your earpieces away from the mics, if you use them. Otherwise, they can cause popping that can hurt the interpreters.

Please direct all of your questions through me, the chair. Wait until I recognize you by name before you proceed. To get my attention, please raise your hand.

If there's a breakdown in the interpretation services, please get my attention, and we'll suspend while it is being corrected.

Pursuant to the order of reference of Tuesday, February 27, 2024, the committee is continuing its study on Bill C-58, an act to amend the Canada Labour Code and the Canada Industrial Relations Board regulations, 2012.

For the first hour, we will have the final group of witnesses who will appear for the review of Bill C-58.

Appearing today in the room is Ginette Brazeau, chairperson of the Canada Industrial Relations Board.

[*Translation*]

Welcome, madam.

[*English*]

From the Canadian Canola Growers Association, we have Dave Carey, vice-president, government and industry relations.

From the Canadian Telecommunications Association, we have Robert Ghiz, president and chief executive officer, and Eric Smith, senior vice-president.

Before we begin, I do have to acknowledge that Mr. Ghiz's father was responsible for convincing me to enter politics and public life back in 1982.

Welcome, Mr. Ghiz.

Each of you will have five minutes or less to give opening remarks. We'll begin with Madame Brazeau.

Chairperson, please go ahead for five minutes.

Ms. Ginette Brazeau (Chairperson, Canada Industrial Relations Board): Good morning. Thank you, Mr. Chair and committee members, for the invitation to appear before you this morning as part your study of Bill C-58.

I intend to speak about the board and its work, its responsibilities and its structures, and explain the impact that Bill C-58 is likely to have on the board's operations.

To this end, I provided a reference document entitled "Information Document relating to the Canada Industrial Relations Board", which I believe was distributed to the committee members.

● (0820)

[*Translation*]

The Canada Industrial Relations Board is a quasi-judicial tribunal that deals with labour relations and employment complaints and requests. We offer mediation to help the parties reach a settlement and, when necessary, we adjudicate disputes between them.

The board consists of a chair, five full-time vice-chairs, and three part-time vice-chairs. There are also six members representing employers and employees in equal numbers. The panels appointed to hear and decide cases are made up of one vice-chair and two members. Members therefore cannot sit alone to decide cases.

The board is responsible for applying and interpreting various statutes, including the Status of the Artist Act, the Wage Earner Protection Program Act and, of course, the Canada Labour Code, which in itself comprises four distinct legislative regimes: Part I, which relates to labour relations; Part II, for health and safety matters; Part III, which deals with minimum labour standards; and Part IV, which deals with an administrative monetary penalty regime.

[*English*]

Traditionally, the board was responsible for part I of the code—industrial relations. In 2019, amendments were brought to the code that made the board responsible for all parts of the code. At that time, the code was also amended to allow the chairperson to appoint external adjudicators to help us deal with certain types of cases. You will see from chart 1 in the document that was distributed that since those changes came into force in 2019, the board's caseload has doubled. We went from about 500 cases a year to 1,000 cases a year.

At the time these changes were made in 2019, there was funding identified for the board's new responsibilities. An amount of $3.4 million was approved for this purpose. However, it's important to note that the board does not have its own appropriations and does not have autonomy in the administration and management of all of its affairs. The board's financial and human resources are allocated and managed by the Administrative Tribunals Support Service of Canada, the ATSSC.

The ATSSC was created through legislative amendments in 2014. At that time, amendments were also made to remove the chairperson's role as a chief executive officer of the board and her authority to direct and manage the board's resources, budget and other administrative matters. Any funding that is identified or approved for the board is in fact allocated to the ATSSC, which exercises all the financial authorities and in turn determines how best to allocate the funding to the various tribunals it supports.

As it relates to the approved funding in 2019, my observation is that the amount of $3.4 million has not consistently flowed through to the board. Our initial budget allocations over the last five years have not seen an equivalent increase. You will see that in chart 4 in the document.

This unpredictable allocation of funds makes it difficult to plan and address the board's caseload in a stable manner. This past fiscal year, for example, I was unable to assign any new files to external adjudicators for a period of eight months as there were insufficient funds allocated for this purpose. As a result, the board has accrued a significant backlog of cases and is experiencing increased delays in processing cases. You'll see that in chart 2.

The board's ability to respond effectively and in a timely manner to the disputes that come to us requires sufficiency of funds and the ability and flexibility to swiftly align or realign human and financial resources as the board sees fit in order to respond appropriately.

All this is to say that if Bill C-58 passes, it will be challenging for the board, with its existing structure and resources, to deal with complaints of replacement workers on an expedited basis or for the board to address all maintenance of activities matters within 90 days without further impacting other types of cases that come to the board.

I'm aware that the committee will have questions for me regarding the timeline for coming into force. In order to be prepared to meet the quick turnaround times that are required by this bill, there are two areas that will require attention.

The first is the resources. I've asked for additional vice-chairs to be appointed to the board and for additional resources to support the work.

The second area is the need for new rules and regulations to be able to review and deal with these matters within 90 days. That will entail development of the rules, consultations with our stakeholders, drafting and adopting of those new rules, and communication materials to ensure that people who come before the board understand the new process we want to put in place to deal with these matters.

As you can see, this will involve considerable work and several steps.

● (0825)

[*Translation*]

I'd be pleased to answer any questions you may have on this subject.

Thank you.

The Chair: Thank you, Ms. Brazeau.

[*English*]

I have Mr. Carey for five minutes or less, please.

Mr. Dave Carey (Vice-President, Government and Industry Relations, Canadian Canola Growers Association): Thank you for inviting the Canadian Canola Growers Association to speak to you today during your study of Bill C-58.

The CCGA is a national association governed by a board of farmer-directors and represents Canada's 43,000 canola farmers on issues and policies that impact on-farm profitability.

I recognize this isn't the House agriculture committee, so I'll briefly provide an overview of our sector.

Canada typically produces 20 million tonnes of canola annually and exports over 90%, in three forms: seed, oil or meal. These products are exported to 50 countries, and in 2023 our exports were worth $15.8 billion. Canada's the world's largest producer and exporter of canola, and our industry supports 207,000 jobs and contributes $29.9 billion to the Canadian economy annually.

Canola travels, on average, over 1,500 kilometres from the farm where it is grown to an export position. There is no alternative in long-distance transportation of our products across the continent: We are completely reliant on Canada's two class I railways to get the majority of our product to market, both now and into the future.

Transportation of grain is one of several commercial elements that directly affect the prices offered to farmers. When issues arise in the supply chain, the price farmers receive for their grain can drop, even at a time when commodity prices may be high in the global marketplace. When rail service is disrupted, the worst-case scenario is that space in grain elevators and process facilities becomes full, and then grain companies stop buying grain and accepting deliveries from farmers. This can occur even when a farmer has an existing contract for delivery, potentially straining their ability to have cash flow into their operations. This is the major reason that western Canadian farmers have such an interest in rail transportation: It directly affects individual farmer income, and beyond that, the ability of Canada's railways to move grain to export critically affects Canada's reputation as a reliable supplier of canola to the world.

Today's grain supply chain is predicated on having the right grain in the right place at the right time. There are a lot of moving parts in this complex system, including trucks, inland collection points, railways, port terminal facilities and marine vessels. All are needed in order to move canola from the Prairies, where it is grown, to international customers, where it is demanded. In such a complex system, in any given year there will inevitably be incidents and events that negatively impact the fluidity and on-time execution of the supply chain. Weather, infrastructure damage and other unforeseen events are often outside our influence or control. In Canada we have enough risk to our supply chains from natural causes in any given year, so ones of our own making must be avoided.

Broadly speaking, elements we do have control over are labour agreements and organized work environments. However, we have observed ongoing and concerning levels of instability between our class I railways and their labour in recent years.

Currently our industry, and Canada, is bracing for the possibility of both class I railways having labour disruptions as early as next month. Even if a strike is avoided, we are concerned that as the May deadline approaches, there'll be significant impacts on service for weeks or months to come.

We saw a similar situation in March 2022, when one of our class I railways approached the brink of labour action with one of their labour groups. Ultimately, a shutdown was avoided at the eleventh hour, but there were still ramifications for supply chain fluidity from even the threat of labour action. In advance of labour deadlines, the railways began curtailing operations, sending a wave of logistical disruptions and delays back through the supply chain that took weeks to rectify. In November 2019, a class I railway did have labour action that affected operations for a full week, with effects reverberating for months. Given the complexity of this system, it generally takes six to seven days to recover for every one day of service disruption.

I ask you, as parliamentarians on this committee, to consider these labour issues from the lens of our international customers and competitors. Over the last decade, our customers have seen strikes or threats of strikes, both of which disrupt the grain transportation system and affect Canada's ability to reliably supply our customers. This has led to Canada building a reputation as an unreliable supplier and trading partner.

Labour-to-management issues naturally reside between those parties. It is a tenuous balancing act that is enshrined in law and evolving jurisprudence. It is not our intention, as a farm organization, to suggest a solution for these issues but rather to highlight the second- and third-order effects when labour issues do arise. We want to produce more, grow more and expand our exports to drive our economy's growth, and labour is needed to get our products from the farm gate to an export position.

Looking forward, we clearly see further rising demand for our agricultural products, both domestically and internationally. At the end of the day, farmers will not be able to capitalize on the opportunities from increasing demand or trade agreements without a reliable rail and labour system that grain shippers and our global customers have confidence in. Bill C-58 will likely compound the significant issues that our sector is already facing through labour and supply chain uncertainties.

● (0830)

The Chair: Thank you, Mr. Carey.

We now go to Mr. Ghiz for five minutes or less.

Mr. Robert Ghiz (President and Chief Executive Officer, Canadian Telecommunications Association): Thank you, Mr. Chair and members of the committee.

We appreciate the opportunity to appear before you this morning to discuss Bill C-58.

When Bill C-58 was introduced, we expressed our concern that the bill seeks to address a problem that does not exist and that for the reasons given to the committee by FETCO last week, it should not become law.

While our position in this regard has not changed, if Parliament decides to pass the bill, it must first be amended to address an issue that should concern all Canadians, including members of this committee.

Canadians rely on telecommunication services every day, and the security and reliability of networks have never been more important. To quote the Government of Canada:

> Not only do [telecommunication services] support a wide range of economic and social activities, but they support other critical infrastructure sectors and government services, and are crucial for emergency services and public safety. They are fundamental to the safety, prosperity, and well-being of Canadians.

[*Translation*]

The same is true for broadcasting and television services, which play a key role in ensuring public safety in Canada.

These services are essential for Canadians. In the event of a power outage caused by a natural disaster, vandalism or another factor, consumers expect their utility and its team to work tirelessly to restore those services. That's exactly what's happening today.

[*English*]

The prohibition on the use of replacement workers in Bill C-58 would significantly weaken service providers' capacity to restore services and protect their networks from disruption during a strike or lockout.

While some argue that requiring employers and the bargaining unit to establish a maintenance of activities agreement before a strike or lockout will mitigate the negative effects of the prohibition on replacement workers, this viewpoint is flawed.

While section 87.4 of the Canada Labour Code requires the parties to continue the supply of services to the extent necessary to prevent an immediate and serious danger to the safety or health of the public, the Canada Industrial Relations Board has previously ruled that section 87.4 does not apply to a potential interruption of telecommunications services during a strike or lockout. As well, the limited exemptions to the prohibition on replacement workers under the proposed amendments to section 94 of the code are not sufficient to ensure the continuity of telecommunications and broadcasting services during a strike or lockout.

Mr. Chair, I know you are intimately familiar with the devastation that hurricane Fiona caused in Prince Edward Island and surrounding provinces. Imagine if telecom workers had been on strike when the storm hit our province. Under Bill C-58, the affected telecom providers could not use striking workers with the necessary experience and skill to protect and restore services or hire temporary replacement workers or contractors. This would have been unacceptable to Atlantic Canadians and should be unacceptable to Parliament.

Experts predict that 2024 could be one of the most active Atlantic hurricane seasons on record. Scientists say that they are bracing for what could be another year of devastating wildfires across Canada, and cybersecurity threats, as we know, are on the rise. Compromising our telecommunications and broadcasting systems' reliability, resilience and security in the context of a strike or lockout undermines the extensive and detailed steps taken by the government under its telecommunications reliability agenda. It also runs counter to Canadians' expectations that these critical services will be there for them when they need them most.

While we respect the right to strike, there must be a balance between workers' rights and the public good. We ask the committee to recommend to Parliament that Bill C-58 be amended to ensure that during a strike or lockout, service providers, their employees and the bargaining units must continue providing services necessary to repair and restore telecommunications broadcasting services and to perform critical maintenance work.

In fact, we know from a recent Nanos poll that 95% of Canadians say that it is important that telecommunications services remain available without disruption and that eight in 10 Canadians think that telecommunications companies and their employees should be required to continue to provide the services needed to prevent and repair disruptions even when there is a strike or lockout.

The amendment would be like one made by Parliament to ensure that labour disputes in the longshoring industry do not interrupt the movement of grain vessels.

We've provided the committee with wording for the suggested amendment and a couple of other amendments that we ask the committee to please consider.

We would be happy to discuss these during the remainder of the meeting.

Thank you, Mr. Chair.

● (0835)

[*Translation*]

The Chair: Thank you, Mr. Ghiz.

[*English*]

This morning we welcome Mr. Seeback and Mr. Sheehan back to the committee.

We will begin with Mr. Seeback for six minutes.

Mr. Kyle Seeback (Dufferin—Caledon, CPC): Thank you very much, Mr. Chair.

Ms. Brazeau, you talked about resources at CIRB. I'm guessing that the changes in this legislation would increase the workload. Would that be a fair assessment?

Ms. Ginette Brazeau: Thank you for the question.

It is our assessment that the workload will increase, yes.

Mr. Kyle Seeback: Do you have any estimate on how much the workload would increase? Would it be similar to the way it went from 500 to 1,000 cases, and now it's going to go from 1,000 to 1,500? Do you have any estimate on that?

Ms. Ginette Brazeau: It's very difficult to give an estimate of the actual workload that will result from Bill C-58.

Maybe I can point to the chart for this. If you look at chart 3, which considers the number of matters related to maintenance of activities that are currently dealt with by the board, you will see that in recent years, we've had between 25 and 30 cases related to maintenance of activities. We deal with those, chart number 2, on average in 150 days, 130 days.

You can see that in 2023 and 2024, 14 of those cases were withdrawn. What happens is that because of the current provision in the code related to the maintenance of activities and the timelines that apply, they file with us. Then they ask us to hold the matter in abeyance, because they want to focus on collective bargaining. We don't deal with those matters. The parties reach an agreement, and then they withdraw this application on maintenance of activities, so although we have 26 applications, we don't deal with half of them. Now, as I read the legislation, there will be a lot more pressure for us to deal with these applications.

Mr. Kyle Seeback: That's because you're going to deal with potential complaints that the employer is violating the statute and bringing in replacement workers.

Ms. Ginette Brazeau: That's the other piece. In terms of replacement workers, we don't necessarily have an estimate of what that will look like.

Mr. Kyle Seeback: Right.

Ms. Ginette Brazeau: We know there are between 25 and 30 disputes ongoing at any one time. Whether or not those units go on strike and whether replacement workers become an issue, it will result in applications.

Mr. Kyle Seeback: You're saying that your funding right now isn't sufficient to do deal with the volume of complaints. Is that correct?

Ms. Ginette Brazeau: That's correct.

Mr. Kyle Seeback: In addition, you anticipate that this bill will increase your workload, so you'll be even less resourced to deal with potential issues. Would you agree with that statement as well?

Ms. Ginette Brazeau: It will be difficult for us to meet the timelines that are in the bill as proposed, yes.

Mr. Kyle Seeback: I took a quick look at the budget. I don't see any additional resources for your organization in the budget that's just been released. Am I correct on that?

Ms. Ginette Brazeau: I haven't seen or been informed of additional funding that was in this week's budget.

Mr. Kyle Seeback: There's certainly no additional funding that's being put forward to deal with the potential increase of cases from C-58. You haven't heard anything about that, have you?

Ms. Ginette Brazeau: There have been ongoing discussions with the department to—

Mr. Kyle Seeback: Nothing has been announced.

Ms. Ginette Brazeau: —identify the amount of money that would be required.

Mr. Kyle Seeback: Nothing has been announced or provided, though.

Ms. Ginette Brazeau: There is ongoing discussion on the amounts that could be potentially transferred to the ATSSC.

Mr. Kyle Seeback: We had unions here saying that the 90-day period is too long and should be 45 days. Would that dramatically increase the resources that you would need to deal with issues?

Ms. Ginette Brazeau: Again, it will put pressure on the board, and whether we'll be able to meet that 45-day timeline.... If that's what results from this committee and that's what Parliament adopts, it will be challenging for the board to be able to meet that time frame with the existing resources, and it's not only that: Everything will be focused on that work, and the rest of the caseload will be delayed further.

Mr. Kyle Seeback: It sounds like if you're having trouble making ends meet now, and with additional work and without additional resources, you won't be able to do that.

● (0840)

Ms. Ginette Brazeau: It will be challenging to meet the timelines.

Mr. Kyle Seeback: Thank you.

Ms. Ginette Brazeau: Also, we'll see an increase in processing times.

Mr. Kyle Seeback: Right. Thank you very much.

Mr. Ghiz, you obviously don't agree with this bill.

We had Mr. Strickland from Canada's Building Trades Unions here earlier this week. He talked about an employer, LTS. They refused to meet with the union for bargaining. They went two years without a collective agreement. Then the union went on strike, and because they could bring in replacement workers, the strike went on for six years.

You say this bill isn't necessary, but how can you justify hard-working families not having a collective agreement for eight years and being on strike for six years because the employer just brought in replacement workers and said “too bad” to these families?

Mr. Robert Ghiz: I'm not aware of the situation with the builders. What I can say is that the amendments we're proposing to the bill would not involve replacement workers; they would involve workers who are already employed by the specific company that had the expertise to be able to continue to maintain those services.

The Chair: You have 15 seconds, Mr. Seeback.

Mr. Kyle Seeback: I think I'll stop there. Thanks.

The Chair: Thank you. I'm going to hold everybody pretty close so that we can get through the two rounds.

Thank you, Mr. Seeback.

We'll go to Mr. Sheehan for six minutes or less.

Mr. Terry Sheehan (Sault Ste. Marie, Lib.): Thank you very much.

Following up on Mr. Seeback's questioning to Ginette, we talked about the resources, and you keep referring to timelines. Step by step, what are the timelines that would be needed? I know we have stuff here, but there are a lot of people who are probably watching from coast to coast to coast, so if you could go through the steps that would be needed....

Ms. Ginette Brazeau: For clarification, are you referring to the timeline of dealing with these cases?

Mr. Terry Sheehan: Yes, in order to.... How is it now, I suppose, and how would Bill C-58 change those timelines, potentially?

Ms. Ginette Brazeau: My reading of the bill and the requirements in the bill for the board to deal with these matters in 90 days means that a lot of our resources, if not all, will be focused on these types of applications—replacement workers and maintenance of activities—because we are asked to deal with these on an expedited basis. In the case of maintenance of activities, it's within 90 days.

We have only five full-time vice-chairs who can deal with the board's caseload, as I mentioned, and three who are part time. We have the ability to use external adjudicators, but the resources need to accompany that, because we need to pay these external adjudicators.

With the budget envelope we have now, if all our resources go towards maintenance of activities and replacement workers, there will be very few resources for other types of cases. We will therefore see an increased processing time for other types of cases—"just dismissal" cases, health and safety matters—that come to us. They'll have to take a back seat if this bill mandates a 90-day turnaround time on maintenance of activities. Right now it takes us, on average, 150 days, so we need to allot more resources and change the way we deal with these matters in order to meet the 90-day timeline, if we can.

Mr. Terry Sheehan: There have been suggestions at this committee that the length of time should go from 90 to 45 days. Do you have a brief comment on that, for the record?

Ms. Ginette Brazeau: That would be a challenge, certainly, even with additional resources.

When dealing with maintenance of activities, we do have to hear from the union and from the employer and consider the services being offered by the employer. We need to be fair to the parties. We need to ensure that principles of natural justice are respected. To do that within 45 days on questions that are of that importance is.... It will be challenging to do that in 45 days.

Mr. Terry Sheehan: Coming into force as well has been talked about. Through the legislation, it's about 18 months. It has been suggested that this time be shortened, perhaps lengthened or stay the same. Do you have comments on the coming into force—in particular, the 18 months not going longer but shorter, from 18 months to something shorter?

● (0845)

Ms. Ginette Brazeau: As I mentioned in my remarks, there are two areas we need to focus to ensure we can implement this legislation properly. One is the resources and the appointment of additional vice-chairs. Neither of those matters is within the board's control. The appointment of additional vice-chairs is a Governor in Council appointment. That's under the leadership of the Privy Council Office, and it involves a process that includes cabinet ratification. It takes a long time to appoint additional vice-chairs to the board.

Obtaining resources and making sure we have those resources available for the board requires the approval of Treasury Board and others, so that process can also be lengthy.

On the internal board rules and regulations, we've already started thinking about what we could change in terms of our processing of these matters, but it's difficult to go out and consult with our stakeholders on the new rules before having the bill in place or before Parliament adopts it. We don't want to pre-empt or presume that Parliament will adopt the legislation, so we'd want a bit of time to complete that work to make sure that we have all those mechanisms in place to ensure appropriate implementation.

Mr. Terry Sheehan: I've heard from both the union side and the employer side that you're very well respected.

What advice would you give to employers and unions to get ready for Bill C-58?

Ms. Ginette Brazeau: The advice that I would give in any dispute that comes before the board is this: How can we help you achieve agreement at the table?

One thing I would say—and thank you for the comment about the board's reputation—is that I think that the board's reputation is due to its credibility, its expertise and its ability to intervene in a timely fashion. If we can't do that going forward....

One thing employers and unions agree on is that the institutions that support collective bargaining are critical to making the collective bargaining system work. If there is legislation that is likely to change or affect that, it's concerning to me, and I would ask that we be supported.

The Chair: Thank you, Ms. Brazeau.

Thank you, Mr. Sheehan.

[*Translation*]

Ms. Chabot, you have the floor for six minutes.

Ms. Louise Chabot (Thérèse-De Blainville, BQ): Thank you, Mr. Chair.

Thank you to the witnesses for being here.

Ms. Brazeau, I will echo the others and say that the Canada Industrial Relations Board plays a major role in the balance of power and labour relations in Canada. Thank you for your testimony.

I'm surprised to learn that you deal with cases that fall under all parts of the Canada Labour Code. In Quebec, occupational health and safety issues are handled by a separate commission. I think it would be nice to see that at the federal level as well. I've already said that the Canada Labour Code needs some love and that it should be strengthened. Treating health and safety separately would be one improvement to make, although that's not proposed in Bill C-58.

This bill is desired and desirable. All the labour organizations that have appeared before our committee so far have reiterated the fact that, to be able to fully implement it, additional resources are needed on the board. That's a role for government. I hope that the government will walk the talk and that, because we want to pass a robust bill to protect the balance of power and give full meaning to the right to strike, the government will be able to allocate the necessary resources to ensure that the bill does that.

I will come back to delays, because it's an important issue, but first I'd like to point out that many witnesses have also told us that there should be an investigative mechanism similar to the one provided for in the Quebec Labour Code that allows workers to enter the workplace to ensure that replacement workers are not being used. It must be said that unions cannot enter the workplace to see whether an offence has been committed or not.

Is that a desirable avenue, in your opinion?

● (0850)

Ms. Ginette Brazeau: The board looks at complaints and requests submitted to us. If we receive a request regarding replacement workers, we have fairly broad investigative powers. We have officers in the regions to whom we can delegate the authority to gather information or evidence in the field, in the workplace, that can then be presented to the board and that the parties can rely on to make their views known.

So our powers already include an investigative component. However, if Bill C-58 passes, we're thinking about how we could use those powers more broadly or differently compared to what we're doing now.

I should point out that we do this kind of investigation in response to a complaint. So there has to be a complaint at the outset.

However, if you're referring to the department's investigative powers, I must say that we already have a model for health, safety and labour standards whereby the department conducts an investigation and the files on which an appeal is based are then forwarded to the board.

I think that would be an additional step in the process.

Ms. Louise Chabot: In my experience and that of the labour movement as a whole, there's a difference between passing a bill and having it come into force. It's very dangerous to have bills come into force 18 months after they receive royal assent, especially in the current political context, where we have a minority government.

We've fought for years to get provisions like these passed, and the minister continues to tell us that he opted for the 18-month waiting period based on guidance from the Canada Industrial Relations Board. Is that right?

Ms. Ginette Brazeau: As I explained, we asked for some time to be able to put certain regulations in place—

Ms. Louise Chabot: I'm talking about the bill coming into force 18 months after it receives royal assent.

Ms. Ginette Brazeau: Yes.

We asked for a period of time to help us to get organized and put the regulations in place. Could we do it faster? Maybe we could, but we still need the necessary resources to implement things without messing up our process or prolonging our processing times for other types of cases.

Ms. Louise Chabot: Under current processing times, it often takes more than 90 days for a decision to be rendered. That's already a very long time. As you know, it's like a cooling-off period. That's what gives people the right to seek recourse.

Many are calling for a shorter decision time, furthermore, for an interim order to be made if the board is unable to render a decision in time.

Can you confirm that it would be preferable to render decisions faster?

Ms. Ginette Brazeau: Are you talking about the 90-day period?

Ms. Louise Chabot: Yes, I'm talking about the time frame for decisions to be rendered.

Ms. Ginette Brazeau: As I said, it will be a challenge to meet that 90-day deadline. We will need the necessary resources to implement the bill and process those cases when we receive them. I'm talking about both decision makers and officers in the field who work with us. It's an outstanding team. We currently have 18 officers in the field, as well as five full-time vice-chairs and three part-time vice-chairs. However, if we're talking about 1,000 cases a year, that's hard to do. That's 170 cases a year for each decision maker.

Ms. Louise Chabot: From what I understand, as it stands right now—

The Chair: Your time is up, Ms. Chabot.

Ms. Louise Chabot: Thank you, Mr. Chair.

I'll follow up on that after.

The Chair: Thank you, Ms. Chabot.

You may go ahead, Mr. Boulerice. You have six minutes.

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP): Thank you, Mr. Chair.

Thank you to the witnesses for being here today as we study this important and historic bill.

I have a comment to start. Mr. Ghiz, your presentation was rather bold, if not provocative. You said that Bill C-58 sought to address a problem that did not exist. I take issue with that.

The dockworkers at the Quebec City port have been locked out for the past 18 months, and every day, they see people taking their jobs and pay. Situations like that aren't limited to ports. They also happen in telecommunications. Sitting behind you, Mr. Ghiz, are four Videotron employees who have been locked out for nearly six months in Gatineau, and replacement workers have been brought in to do their jobs. This is a real problem. In fact, I kindly encourage you to go up to them after the meeting, to talk to them about their situation and find out what the labour dispute is like for them. They have been out on the street for nearly six months.

Ms. Brazeau, you said you couldn't presume what Parliament would decide with respect to the bill. I agree, but since all parties in the House voted in favour of Bill C-58 at second reading, it will probably end up being passed, unless the tide turns and things change significantly.

Is the Canada Industrial Relations Board getting ready for the bill's potential passage?

● (0855)

Ms. Ginette Brazeau: We have indeed started consulting stakeholders, including Quebec's Administrative Labour Tribunal to draw lessons from its approach and practices vis-à-vis Quebec's anti-scab provisions. We've spent time with tribunal officials to understand the tribunal's process, and they provided us with written materials.

We are examining all of that information, as well as the powers that would be conferred upon the board under the bill. We are thinking about the process we'd like to put in place if the bill is passed. The answer to your question is yes, that work and thought process have begun.

Mr. Alexandre Boulerice: Many witnesses have raised the issue of time frames with the committee, whether it's the 18 months until the bill would come into force or the 90 days the board would have to make its determination. A number of labour groups said that both time frames were a bit long, even too long. They'd like to see the process move a bit faster.

You just seemed to suggest that it would certainly be possible to shorten the 18-month coming-into-force time frame. What resources would you need in order for that to happen? I should say that your funding hasn't gone up much since 2019. What would you need to bring that 18-month period down to eight, 10 or 12 months, say?

Ms. Ginette Brazeau: We would need a reasonable amount of time to put the rules and procedures in place. We would need time to consult with the stakeholders who use our services, as well as to train and educate the people who work at the board. We might be able to do it in six months, but our main concern is still resources. We would need to know that additional decision makers were being appointed and would be ready to deal with cases when they come to us.

Mr. Alexandre Boulerice: Another recommendation we got was for the time frame to be zero months. Is that realistic?

Ms. Ginette Brazeau: I don't think that's realistic, no.

Mr. Alexandre Boulerice: All right.

Now I'd like to discuss the 90-day deadline for making a determination.

The Canadian Union of Public Employees recommended shortening the deadline to 45 days. Again, I gather it would come down to human resources. The union also recommended that, if a decision was not made within the time limit, the board issue an interim order at the request of the bargaining agent, meaning the union.

Would it be possible for the board to issue an interim order if it failed to meet the deadline prescribed by law, be it 45 or 90 days?

Ms. Ginette Brazeau: It would be possible, since the board already has the power to issue interim orders.

Now, what would be the basis for issuing that interim decision? If such a measure were introduced, I would suggest requiring each party to provide the board with a list of the services it feels should be maintained. That requirement could be included in the statute or made through regulation—I'm thinking aloud here. That way, we would have the employer's and the union's lists and could examine whether it would be possible to issue an interim order in a given case.

It would be possible, but as I said, I was just thinking aloud.

● (0900)

Mr. Alexandre Boulerice: That's fine.

How much time do I have left, Mr. Chair?

The Chair: You have another 45 seconds.

Mr. Alexandre Boulerice: All right.

Ms. Brazeau, you said that, for eight months, you couldn't use external adjudicators. I find that a bit worrisome. Again, it's just a matter of resources. Certainly, delays like that must cause problems from a labour relations standpoint.

Ms. Ginette Brazeau: As I explained, in 2019, the chairperson gained the power to appoint external adjudicators to deal with the heavier caseload the board was experiencing, having been given responsibility for matters under parts II and III of the Canada Labour Code as well. It represented a significant amount of work, and $3.4 million was approved so we could do the work. As the chart shows, however, the funding wasn't available. For eight months, we weren't able to assign those files to external adjudicators, which led to longer wait times.

Mr. Alexandre Boulerice: Thank you.

The Chair: Thank you, Mr. Boulerice and Ms. Brazeau.

[*English*]

We will go to Ms. Gray for five minutes.

Mrs. Tracy Gray (Kelowna—Lake Country, CPC): Thank you, Mr. Chair.

Thank you to all the witnesses for being here today.

I will start with Ms. Brazeau of the Canada Industrial Relations Board.

I had the privilege of serving on the Passenger Transportation Board in British Columbia, which is an independent tribunal. Having had that experience, I know that when applications came to me, they were of different types, and you referred to that.

Some of the applications, when I was going to assess them and write decisions, would take a very short amount of time, while some would take a much longer amount of time. They could take many months if they were much more complex.

Can you go into a bit of detail on the types of applications and what the timelines are? I know you've listed the types of applications and the amount of time that they take, but not necessarily how many applications there were.

Can you give us your feeling about what that workload is now? Also, can you see what the changes are, based on the types of applications, and how that might affect your ability to plan and go through them all?

Ms. Ginette Brazeau: I should point out that in chart 2, I provided only three types of applications that I thought were relevant for the discussion, but we have several types of applications. In the case of maintenance of activities, as it shows here, we get between 25 and 30 of those cases per year. Unjust dismissal complaints are the largest type of complaint under part III of the code. They represent about one-third of the caseload of this board, and those are normally sent out to external adjudicators. With the challenge we had last year, that's a type of application that is now accruing and for which we're experiencing delays that I consider unreasonable, given where we are.

As for other types of applications, there are certification applications when a union comes in to be certified to represent a group of employees. We deal with those on an expedited basis. They're less than 5% of our caseload. Our objective is to deal with those within 50 days, and we meet that about 80% of the time. Cases that raise jurisdictional questions would take longer.

Unfair labour practice complaints, which appear on this chart, are another large piece of our work. I would say that they represent 10% to 15% of our work, and you see the delays there, or the processing time for dealing with them. They involve anything from termination of a union organizer to interference in bargaining or bad-faith bargaining complaints that come to us.

I don't know if that provides a good picture of what our workload looks like.

● (0905)

Mrs. Tracy Gray: Thank you very much. I think that gives us a better understanding as to your workflow.

The other thing you mentioned was the number of vice-chairs you have, and you referenced external adjudicators, so I'm wondering if you can go through with us what your structure is.

Hypothetically, if you did have some more resources allocated, how quickly could you even ramp up? In my case I had to go for specialized training at the Justice Institute in Vancouver. Are there individuals, whether they're vice-chairs or external adjudicators....? Maybe those are the same people—I'm not sure—but can you explain for us how that works and what the ramp-up time would be to bring more people on board, and more resources?

Ms. Ginette Brazeau: Vice-chairs who are appointed on a full-time basis are appointed for a term of five years with the board. That's a Governor in Council appointment. They're identified through a process, an advertisement that is put out by the Privy Council Office. We look for a background in labour relations expertise and experience with litigation or adjudication in an administrative tribunal.

They usually come with a lot of experience, but they need to become familiar with the types of files we deal with and build confidence in adjudication so that over time they become more confident and familiar with the various types of cases. Maintenance of activities and replacement worker issues are very particular and require a specialized approach.

External adjudicators are—

The Chair: Ms. Brazeau, could you wrap up, please?

Ms. Ginette Brazeau: I'm sorry.

External adjudicators are private arbitrators who have their own practice. I have a list of about 15 external adjudicators I call upon to take on some cases as need be.

The Chair: Thank you, Ms. Gray.

Thank you, Ms. Brazeau.

Mr. Coteau, you have five minutes.

Mr. Michael Coteau (Don Valley East, Lib.): Thank you very much, Mr. Chair.

Thank you to our witnesses today. I appreciate your time.

I have a quick question to Mr. Ghiz. You mentioned that the bill, by not having replacement workers, could compromise critical services. However, it's my understanding that in the MOAs between organized labour and employers, usually and in most cases, those types of services are included in the agreements, and unions usually agree to ensuring that critical services are maintained. Is that your impression?

Mr. Robert Ghiz: First of all, let me say that what we're looking for in our amendment is not related to replacement workers. We're looking for our existing employees to be able to work on that continuation of service. I'll ask my colleague Mr. Smith to perhaps give you a bit of a background legally in terms of how that really works.

Mr. Eric Smith (Senior Vice-President, Canadian Telecommunications Association): Obviously we don't have insight into every memorandum of agreement, but it's illustrative that in an important case in 2003, the Aliant Telecom case, the board decided that section 87.4, which deals with maintenance activities, is not broad enough for them to require that there be a maintenance and service agreement to cover services necessary to restore outages and what have you. There's not sufficient nexus.

In their conclusion, they said that they did not support a finding that a strike or lockout could result in “immediate and serious danger” to the health or safety of the public if there's a telecom outage. There's no requirement to enter into a maintenance and service agreement.

After that decision was made, there was a subsequent case between Telus and its union. Here there had been a maintenance of services or activities agreement prior to that Aliant Telecom decision. The board said that the union expressed frustration at having entered into that agreement to provide access services after the board had concluded that “the possible interruption of telecommunications services” did not constitute “an immediate and serious danger to the safety and health of the public”. The board further explained that the union considered “that the signing of the agreement weakened its bargaining position and...caused it to be criticized by its membership”.

I don't think you can conclude that there will always be maintenance of activities agreements. That's all we're asking for. We're just saying that if everyone agrees that it's vitally important for Canada that if you're taking away replacement workers when there's an outage, there has to be a mechanism that allows telecommunications and broadcasting rights to restore services in hours, if not minutes.

● (0910)

Mr. Michael Coteau: Thank you. I appreciate it.

We also heard from one of the witnesses, Charles Smith—I think last week—who is a professor out in Saskatchewan. He had a very compelling argument that traditionally in today's society, employers have always had a bit of an advantage over employees. He talked about how industry groups in general have shied away from bills like this and made the argument that a bill like this could prolong strikes. He presented some evidence in regard to Quebec and B.C. having this type of legislation in place and made the argument and presented it to us that there would actually be fewer strikes when legislation like Bill C-58 is put in place.

Mr. Carey, has your industry group done any research to support the claim that a bill like Bill C-58 could potentially cause more disruption, versus the claim Mr. Smith has made, which is that it actually reduces disruption by creating “industrial peace”, as he referred to it, and creating a better balance between employers and employees?

Mr. Dave Carey: We haven't, not to that degree. I can say that the agriculture sector does have provisions. The longshoremen are prohibited from striking because over the years it was used as leverage, and then Minister MacAulay, in labour, in 1998 amended that. Again, I think the agriculture sector's view is similar to the telecoms' view, which is not about replacing workers. It's about allowing current staff within, say, the railways, to continue to keep the lights on.

I think our view on Bill C-58 is that you do need to take a sector-by-sector approach when allocating through these sorts of blanket bills. We don't have a position on collective bargaining. We respect the unions' abilities to do things. However, we are seeing Canada's reputation challenged globally, with the current legislative framework we have, about our ability to get agriculture products to market.

Agriculture is one in nine jobs, 7% of GDP and $99 billion in exports last year alone. I guess our concern is that BillC-58 would more instability with Bill , but again, our comments would be within the agriculture sector and also within the abilities of the railways, the grain companies and the ports to use current staff, whether they're management or non-unionized, to keep the lights on. Replacement workers can't jump on a railcar and run the thing. They just can't. That's where major labour instability is. We are concerned about the trend of labour instability in our grain supply chains.

Mr. Michael Coteau: Thank you.

The Chair: Thank you, Mr. Coteau and Mr. Carey.

[*Translation*]

It's now over to Ms. Chabot for two and a half minutes.

Ms. Louise Chabot: Thank you, Mr. Chair.

I believe this is the last time we'll be meeting with witnesses for our study on Bill C-58.

In order to be historic and do what it's supposed to—prohibit the use of replacement workers—the bill actually has to come into force. It makes no sense that the bill won't come into force until 18 months after it receives royal assent. That doesn't even include how long it will take for it to receive royal assent. What a joke to tell unionized employees who work for Videotron, the Quebec City port and other such employers that, even though the bill was passed, it won't come into force for 18 months. If the government is serious about this legislation, it has to allocate all the resources required for implementation.

Workers' right to strike, a fundamental right protected by the charters, is at stake. However, it will be a long time before all these legislative improvements come into force, improvements that will lead to disputes truly being resolved. As the only explanation, the minister stated clearly that the time frame had been recommended by the Canada Industrial Relations Board. We find that totally unacceptable.

What's more, of course strikes cause disruptions, but you can't make an omelette without breaking eggs. It's important to respect the parties to the dispute. When employers use replacement workers, as Videotron has, they aren't respecting the issues. During a lockout, the employer can organize, contract out the work and move call centres outside the country. That is the reality. On top of that, good jobs are lost.

Mr. Ghiz, we are well aware of how important the telecommunications sector is, as are other sectors that deliver essential services. However, does that justify telling workers that it doesn't matter if they want to exercise their right to strike because they can be replaced anyways?

● (0915)

[*English*]

Mr. Robert Ghiz: Thank you.

The amendment that we're proposing is not about bringing in replacement workers. As we heard from Mr. Carey, you can't just take someone and tell them to run a train. You just can't take somebody off the street and put them to work repairing telecommunications services. It's about making sure that employees in the telecom industry have the ability that is required if there is a natural disaster or if networks go down and people need the network for health care or education or for work or for 911. If people need access to these essential services, we need to have the opportunity to keep them up and running.

While yes, we said that we're against the bill, if the bill is going to go ahead, as we're hearing from all parties, then we think it is vitally important that we have amendments in place to ensure the continuity of telecommunication systems in the event of an outage.

[*Translation*]

The Chair: Thank you, Ms. Chabot.

The last questioner will be Mr. Boulerice for two and a half minutes.

Mr. Alexandre Boulerice: Thank you, Mr. Chair.

I want to say, in closing, how proud I am of this study that the committee is conducting. I am very proud of my party, the NDP, for making the passage of anti-scab legislation a condition of its agreement with the minority Liberal government. This is something that has long been important to us, something we have spent years fighting for alongside the men and women who make up the labour movement. Restoring the balance of power at bargaining tables across the federal sector is vital so that each side has the ability to exert economic pressure on the other. When the use of replacement workers is permitted, only one side can exert that economic pressure, unfortunately.

My last question is for you, Ms. Brazeau.

As it stands, the bill provides that subcontractors hired by the employer prior to the date on which notice to bargain is given can continue those activities, as long as the activities remain the same and are carried out in the same manner and to the same extent. In other words, they can keep performing the same tasks as before for the same number of hours per week, but they can't take the place of employees in the bargaining unit involved in a labour dispute, strike or lockout.

If that provision is not amended, there needs to be a way to check whether the employer actually adhered to those requirements in the event of a complaint.

If the union files a complaint because it believes that the activities being carried out by a subcontractor changed, that the extent of those activities changed or that the subcontractor's work hours changed, what ability do you have to deal with that? Can you respond effectively and how soon?

Ms. Ginette Brazeau: That's a specific question.

As I said, section 16 of the Canada Labour Code confers fairly broad investigative powers on the board. One of the possibilities we are considering right now is setting up an investigation process where our officers would go to the work site to ascertain the facts related to those issues. In other words, the officers would look at what work was being done, how many hours it was being performed for and whether it was the same work. We have to find a way to obtain that information. Should our officers conduct an investigation to obtain it, or should a traditional hearing be held where the union and the employer each present information related to the dispute?

A faster and more efficient method would be to have our officers conduct an investigation, as they do for applications for certification.

That's something we are thinking about right now, figuring out the best approach to deal with the kind of complaint you're talking about.

Mr. Alexandre Boulerice: Thank you very much.

The Chair: Thank you, Mr. Boulerice.

Thank you everyone.

[*English*]

That will conclude the first hour of the committee's meeting this morning. It will also conclude the witness testimony on Bill C-58.

We'll suspend for a few moments and then go in camera for the business portion of this meeting.

Thank you, Mr. Carey, Madame Brazeau, Mr. Ghiz and Mr. Smith, for appearing this morning on this important piece of legislation.

We'll suspend for two minutes.

[*Proceedings continue in camera*]