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Chair

Mr. Bryan May

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

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● (1530)

[*English*]

The Chair (Mr. Bryan May (Cambridge, Lib.)): Good afternoon everybody. We have a lot to get through today, so I'm going to dispense with any preamble. I know that we have a long day today as well as Wednesday to get caught up with the order. Welcome back from your constituent weeks. Thank you to all of our panellists for this first hour.

I would like to welcome Michael Mazzuca, an executive member of the Canadian Bar Association's pension and benefits law section. From the Office of the Privacy Commissioner of Canada, we have Patricia Kosseim, senior general counsel and director general, legal services, policy and research; and Mr. Daniel Therrien, Privacy Commissioner of Canada. From the Canadian Labour Congress, I'd like welcome Hassan Yussuff, president, and Pierre Laliberté, assistant to the president.

Welcome everybody. Thank you for being here. We would like to hear first of all from Michael Mazzuca for seven minutes please.

Mr. Michael Mazzuca (Executive Member, National Pensions and Benefits Law Section, Canadian Bar Association): Thank you.

Mr. Chair, vice-chairs, and honourable committee members, I'm pleased to be here today on behalf of the Canadian Bar Association.

The Canadian Bar Association is a national association representing approximately 36,000 members of the legal profession. Our primary objectives include improvements in the law and the administration of justice. It is through this lens that we have prepared our written submissions and appear here today.

Our written submission was prepared jointly by the privacy and access law section of the CBA, the constitutional and human rights law section, and the pension and benefits law section, which I am from.

Our written submissions and our comments today are focused solely on the clauses of Bill C-4 that repeal the former Bill C-377. Those are clauses 12 and 13 of Bill C-4.

The CBA has previously expressed a number of concerns with respect to Bill C-377, both in our written submissions and in appearances before the House of Commons finance committee, the Senate banking, trade, and commerce committee, and the Senate legal and constitutional affairs committee. I am a past chair of the pension and benefits law section, and I was the one who appeared on behalf of the Canadian Bar Association at each of those committee hearings.

As I've said, the CBA supports the provisions of Bill C-4 that repeal Bill C-377, which inserted into the Income Tax Act extensive reporting requirements for labour organizations and labour trusts. The CBA remains of the opinion that Bill C-377 was fundamentally flawed and it triggered serious concerns from a privacy, constitutional law, and pension law perspective.

I'll leave it to my colleagues to speak more at length about this, but from a privacy point of view, the disclosure of salaries and wages of employees and contractors of independently governed organizations went well beyond what previously existed, or what has previously existed, in Canadian law, and was inconsistent with the privacy protections embodied in numerous privacy policies and constitutional jurisprudence in Canada.

To the extent that Bill C-377 would have required particularized disclosure, it obliged disclosure of personal information that is normally considered amongst the most sensitive, such as financial information and information about political activities and political beliefs. In particular, from our legal profession's perspective, the CBA was concerned, as it was throughout the process with Bill C-377, that appropriate provisions were not made for information that's usually protected by solicitor-client privilege.

Solicitor-client privilege has been called a fundamental civil right, one which the Supreme Court of Canada has said must be protected by stringent norms in order that it remains as close to absolute as possible. There were minor exemptions for solicitor-client privilege in the final version of Bill C-377, but legal advice can be provided in a number of different transactions and contacts. The overriding concern the CBA had was that the bill in its entirety did not make provision for the protection of solicitor-client privilege.

The CBA believes Bill C-377 lacked an appropriate balance between any legitimate public goals and the respect for private interests protected by law.

From a constitutional law perspective, we believe that Bill C-377 was certainly open to challenge under both paragraph 2(b), freedom of expression, and paragraph 2(d), freedom of association, of the Charter of Rights and Freedoms. We know, in fact, that it already was subject to a legal challenge, I believe in Alberta.

In particular, the requirements that a labour organization file a statement detailing its disbursements for political activities, lobbying activities, organizing activities, and collective bargaining activities, we believe, could have been found to be unconstitutional, counter to the charter's protections of freedom of expression and freedom of association.

● (1535)

We also believe that section 149.01 of the Income Tax Act, which was inserted by Bill C-377, interfered with the internal administration and operations of a union, which the constitutionally protected freedom of association precludes unless the government interference qualifies as a reasonable limitation upon associational rights. In that regard, it was unclear to the Canadian Bar Association exactly what the justification was for these severe infringements.

In a recent case, the Supreme Court of Canada said that the charter protects a union's ability to communicate and persuade the public of its cause, and that impairing its ability to freely express itself as it sees appropriate would be an unjustified infringement on section 2 (b) protected rights.

Just as the Supreme Court of Canada has affirmed that section 2 (b) of the charter protects a union's freedom of expression, it must also protect its freedom not to express.

Let me conclude on the pension and benefits concerns. Our concerns stem from the fact that Bill C-377 was broadly drafted and applied to labour organizations and labour trusts. The definition of “labour trust” was so broad that it included any fund in which a union member was a beneficiary. As we know, a great variety of types of benefits may be offered to employees and union members, and the small list of exemptions contained in Bill C-377 was not sufficiently broad. The list of exempted plans in the bill failed to encompass things such as charities, non-profit organizations, RCAs or retirement compensation arrangements, education and training initiatives, and mixed-purpose benefit plans. A plan that provided death benefits, for example, would have to disclose information about individuals who receive such benefits.

As a result of these concerns, the CBA is fully in support of the provisions of Bill C-4 repealing those provisions of Bill C-377.

Thank you.

The Chair: Thank you very much, sir.

Now I'd like to turn the microphone over to Mr. Therrien, please, for seven minutes.

[*Translation*]

Mr. Daniel Therrien (Privacy Commissioner of Canada, Office of the Privacy Commissioner of Canada): Mr. Chair and committee members, thank you for inviting me to speak with you regarding Bill C-4.

In May 2015, I appeared before the Standing Senate Committee on Legal and Constitutional Affairs to comment on some of the legislative enactments of Bill C-377, which the bill before you now proposes to repeal. Namely, those provisions imposed certain public disclosure requirements upon unions under the Income Tax Act. Before that, my predecessor appeared before a House committee in 2012 and a Senate committee in 2013 on the same issue. As during my last appearance, I will keep my remarks at a fairly high level.

Firstly, as a matter of general government policy, I fully support efforts to encourage transparency and accountability, including for unions. These are fundamental organizational principles of good governance, and they underpin effective and robust democratic institutions. But transparency is not an end unto itself; it cannot be an absolute objective to the exclusion of other considerations such as privacy. Transparency efforts must be carefully balanced with the need to protect the personal information of individuals.

It was the aim of Bill C-377 to render operations of union organizations transparent and therefore more accountable. This was to be achieved by requiring publication of individual employee compensation over $100,000; details of all transactions and disbursements for which the cumulative value in respect of a particular payer or payee was greater than $5,000, including third parties; and the percentage of time spent by certain individuals on political activities and lobbying and non-union activities.

● (1540)

[*English*]

In my remarks before the Senate on the proposal, I expressed doubt that true accountability for union members required publication of such extensive personal information to the general public through the website of the Canada Revenue Agency. The vast majority of unions already have financial statements that are internally available to their members and in many cases publicly posted on their websites. However, these statements containing financial information are usually in aggregate form and seem to achieve their intended purpose without having to name specific individuals.

As I have emphasized in other venues, most recently before the House ethics committee, political activity can be and for many people is a very sensitive and personal matter. Publicly listing specific individuals along with their political and lobbying activities is, in my view, overreaching.

Likewise, publicly naming individual payers and payees, often third parties, associated with transactions involving cumulative value over $5000 seems disproportionately intrusive from a privacy perspective.

Finally, as for shining light on the compensation levels of a union's highest-paid officers, there are several ways this can be achieved in practice without having to legislatively require disclosure of specific salaries of named individuals. While several provinces require that detailed reports of a union's spending be made available upon request, these measures have stopped short of publishing the names and earnings of individuals. Similarly in France, for example, unions publish annual financial statements—that is, assets, liabilities, loans, etc.—but they contain no personal information.

In short, I am supportive of the legislation before you that will revoke these more problematic aspects.

I would be pleased to answer any questions you may have.

Thank you.

The Chair: Thank you, Mr. Therrien.

Now we will hear from Mr. Yussuff.

Mr. Hassan Yussuff (President, Canadian Labour Congress): Thank you for the opportunity to appear before you today.

The Canadian Labour Congress, of course, is the single largest democratic and popular organization in this country. It speaks on national issues on behalf of 3.3 million workers. It represents more than 50 national and international unions in Canada. The Canadian Labour Congress strongly, of course, supports Bill C-4, restoring balance, fairness, and stability to federal labour relations.

From the beginning, the CLC opposed Bill C-377 and Bill C-525 as flawed, ideologically motivated legislation. These private members' bills represented a fundamental and a dangerous attack on the rights and freedoms of working people in Canada to organize unions free from outside interference. These bills were developed without consultation with the labour movement. They threatened to polarize federal labour relations and fundamentally tip the balance between employers and unions.

Historically, changes to the federal labour relations regime have been incremental, based on careful study and research, and developed through extensive consultation with unions and employers. Bills C-377 and C-525 were the complete opposite. Bill C-377 was drafted and introduced without consultation with unions. The bill lacked any credible labour relations or public policy rationale. Bill C-377's purpose was to single out, interfere with, and weaken the unions.

No public company, registered charity, or non-profit organization has to disclose confidential or extremely detailed information, only unions. None of the organizations whose members can deduct professional fees, such as bar associations, medical associations, engineers and, of course accountants, were targeted, only unions.

Seven provinces and numerous constitutional experts warned that Bill C-377 interfered with provincial jurisdiction over labour relations. Experts in constitutional law pointed out that the bill violated the rights of workers under the Charter of Rights. Conservative senators warned of the serious risk to personal privacy and to thousands of individuals unintentionally put at risk by the bill, and so on.

Unions routinely issuing financial reports to their members in nearly all jurisdictions in Canada have laws entitling members to financial statements.

Bill C-377 would have cost taxpayers millions of dollars to spy on and/or punish unions. This is purely for the benefit of union-busting employers and the anti-union crusaders.

Bill C-377 was flawed as an offensive attack on unions and the constitutional rights of working people. We commend the new government in Canada for repealing it.

Bill C-525 was also drafted without consultation and without convincing justification. FETCO, the association of large employers under federal jurisdiction, did not claim there were problems with automatic card check certification. FETCO did not identify any problems with card check certification before or even during the debate on Bill C-525. Blaine Calkins, the sponsor of Bill C-525, justified the bill by referring to union intimidation in organizing drives and the mountain of complaints that end up at the labour relations board. In fact, most cases of intimidation and unfair labour practice during the certification process across Canada involve employers. Eliminating automatic card certification and imposing mandatory voting have nothing to do—

● (1545)

The Chair: Excuse me, sir, I'm wondering if you could speak a little slower. The translators are having trouble keeping up with you.

Mr. Hassan Yussuff: Imposing a mandatory vote had nothing to do with a more democratic system of accessing collective bargaining representation. This is clear from the fact that Bill C-525 originally required a majority of employees, not voters, to decide in favour of unionizing.

Under the original Bill C-525, workers who didn't vote would have been counted as casting a “no” ballot rejecting certification. Academic research and the experience of the United States are clear: adding a secondary, mandatory vote gives employers the opportunity to interfere with union drives and engage in unfair labour practices.

Under card check certification, workers electing to become a union member in the course of an organizing drive are already indicating their preference. If there is any doubt about their intention, labour boards have the power to order a secret ballot vote. In its 2014-15 annual report, the Canada Industrial Relations Board confirmed that the vast majority of cases that result in a representation vote confirm the applicant's level of support at the time of filling of the application. The board found that the level of support following the vote remains relatively the same, or is greater than the level demonstrated by the membership evidence filed with the application.

In the period following Bill C-525's entry into force, this was true for all matters where a representation vote was conducted, except one. This reinforced our point that Bill C-525 forced workers unnecessarily to indicate their preference in a separate, second vote that was redundant, with no purpose other than to grant employers and third parties additional opportunity to influence the outcome.

In conclusion, we commend the government for moving to restore balance, fairness, and evidence-based policy-making in the federal labour relations forum.

Thank you so much.

The Chair: Thank you.

Thanks to all of you for being brief. That's great. It allows us to get to questions quicker.

Without further ado, Monsieur Deltell.

[*Translation*]

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you, Mr. Chair.

Thank you kindly, ladies and gentlemen. Welcome to this committee of the House of Commons.

I have two or three points I'd like to raise. First—

[*English*]

I would like to ask a question of Mr. Mazzuca.

You talked about privacy and the fact that the previous bill could cause difficulties with privacy.

However, as you know, our salaries are public. While we are not public servants, our salaries are still public. There is no problem with that because we receive money from the people.

[*Translation*]

Furthermore, under the Rand formula, all central labour organizations receive somewhere in the neighbourhood of $500 million in contributions from Canadian taxpayers. That's akin to taxation authority.

Why do you think it is acceptable for the salary of an MP to be public information—everyone knows what it is and it's always a hot topic come election time—whereas a union boss's salary, which is disclosed to union members, is not information that is available to the people who contribute some $500 million annually to the coffers of those unions?

● (1550)

[*English*]

Mr. Michael Mazzuca: I can respond, first of all, to the public aspect.

It's true that the federal government and several provinces have disclosure of salary legislation, but Bill C-377 was the first instance of legislation requiring a private organization to disclose salaries. No other private industry is subject to that kind of disclosure.

With respect to the union dues and the union dues' paying members, again the Canada Labour Code and most provinces have labour legislation requiring disclosure of financial information by the union to its members. The CBA certainly supports transparency. We believe that the members are entitled to that type of transparency, but that type of legislation is already there. There was no necessity to insert another layer of more public disclosure on the public website through the Income Tax Act.

Mr. Gérard Deltell: Mr. Chair, I would like to ask another question, but this time of Mr. Yussuff.

You had some very strong words talking about dangerous and offensive attacks, even if we're talking about transparency and democracy.

[*Translation*]

Mr. Chair, I'd like to quote an excerpt from a brief submitted by the Conseil du patronat du Québec. Unfortunately, the committee won't have an opportunity to hear from the organization's representatives as witnesses, but since they went to the trouble of submitting a brief, I'd like to refer to it.

[*English*]

In talking about the secret vote, they say the following:

[*Translation*]

> Holding a secret ballot once all employees have considered the issue, were consulted, heard all the arguments and debated them may in fact result in the union receiving less support.

[*English*]

Mr. Chair, my question is clear. We are all democratic people. All of us here around the table have been elected under a secret ballot.

I think, Mr. Yussuff, that you and all the people around you have been elected by secret ballot, by a secret vote.

[*Translation*]

Why, in that case, would you not be in favour of a union being established by secret ballot?

That approach would significantly strengthen your moral authority.

[*English*]

Mr. Hassan Yussuff: First and foremost, workers signing a union card to join a union is an indication they want to join the union.

To add a second layer is only to allow the employer an opportunity to interfere with the decision of the workers making that decision in the first place. There is no justification for it. There's no evidence suggesting that workers who sign a union card somehow are not giving their true or authentic indication of whether they want to join a union.

We have had this system in place in the federal jurisdiction for decades. It's never been proven that somehow this will interfere in the democratic rights of workers to choose their union. If you don't want to join the union, you don't sign a union card.

The board, the CIRB, which testified prior to Bill C-525 when the bill was before the committee, indicated that there has never been any contradiction between workers signing a union card and that when there was a vote, the level of support or numbers were any different. As a matter of fact, the indications are that the level of union support went up, not down, in the first place.

Mr. Gérard Deltell: Why do you not support a secret vote? You have been elected under a secret vote.

Mr. Hassan Yussuff: Yes, I do, because of the following.

First of all, there's a difference between a secret vote choosing you as my elected representative in the country and workers making a decision about whom they want to represent them in their collective bargaining relationship. You understand nothing of the dynamics of the power relationship between an employer and an employee in the workplace in the first place.

The power dynamics are not the same. The employer has greater influence and power over workers. That's why the majority of cases filed before the boards are about employers firing workers who have chosen to join a union. The majority of cases concern employers who have intimidated workers for being involved in an organizing drive, because of the employer's interference with the union organizing drive in the first place.

Mr. Gérard Deltell: In six provinces in Canada, you have the secret vote. Where is the problem?

Mr. Hassan Yussuff: The fact of the matter is that it has reduced, of course, the rights of workers to join unions in many of those places. It has been demonstrated, time and time again, that employers interfere in the free right of workers to join a union in the first place.

Mr. Gérard Deltell: How could they interfere when it's a secret ballot, a secret vote, when you have seen a clear debate between those who are supportive and those who are not?

● (1555)

Mr. Hassan Yussuff: The reality, of course, is that signing a union card gives workers the right to decide whether they want to join a union. If they do, there is no justification for adding a second layer for the workers to indicate their decision in the first place.

The Chair: Thank you very much.

Now over to Monsieur Robillard.

[*Translation*]

Mr. Yves Robillard (Marc-Aurèle-Fortin, Lib.): Thank you, Mr. Chair.

Good afternoon to all the witnesses. Your contribution to the committee's work is deeply appreciated.

My question is for Daniel Therrien.

When Bill C-525 and Bill C-377 were passed, where did you stand on the approach that was taken?

What did you think about the Conservatives' decision to adopt those provisions by way of private members' bills? What did the Canadians you spoke with at the time think?

Would you say those citizens groups were able to have their say and be consulted in connection with those two bills?

Mr. Daniel Therrien: Thank you for your question.

As I recall, the comments that I, or Ms. Stoddart, made at the time in relation to the previous incarnation of the bill had to do with its substance and legislative provisions, as opposed to the consultation process beforehand or lack thereof. My predecessor, Ms. Stoddart, and myself were steadfast in that regard. Our position was that the bills, now statutes, were problematic from a privacy standpoint.

Mr. Yves Robillard: You have been on the job since 2014. Since then, have you gotten the sense that the various concerns over Bill C-525 and Bill C-377 were taken into account?

Mr. Daniel Therrien: I had the opportunity to address the matter before House and Senate committees, but my suggestions were not followed. That's how I would answer that.

Mr. Yves Robillard: Mr. Therrien, I asked the Minister of Employment, Workforce Development and Labour this question last month. I asked her how the passage of Bill C-377 would hinder the privacy of unions and unionized employees. Allow me to explain.

Some groups, including the Canadian Labour Congress, the Barreau du Québec, and the Canadian Bar Association, were of the view that the disclosure requirements in Bill C-377 violated the Canadian Charter of Rights and Freedoms. They argued that the disclosure requirements hindered union activities and put the union at a disadvantage at the bargaining table, in relation to the employer, in contravention of the freedom of association guaranteed under section 2 of the charter.

Are you concerned that the reporting requirements could hinder the internal administration of powerful labour organizations or force unions to disclose information that could disadvantage them during collective bargaining?

Mr. Daniel Therrien: My role is to advise parliamentarians on the consequences that legislative measures can have on privacy. I do not have an opinion on the activities of labour organizations, specifically, but, like my predecessor, I have maintained all along that the provisions contained in Bill C-377 and its previous incarnations, went too far by imposing a public disclosure requirement. They were unreasonable and infringed on privacy rights.

● (1600)

Mr. Yves Robillard: Are you, as the Privacy Commissioner of Canada, concerned by the fact that Bill C-377 requires labour organizations and labour trusts to disclose certain information to the Minister of National Revenue?

If so, would you mind describing those concerns for us?

Mr. Daniel Therrien: I talked about them during my opening remarks.

Bill C-377 requires labour organizations to disclose information that is considered to be among the most sensitive—information on the political activities of union members. A person's political activities, including those of a union member, clearly constitutes very sensitive information. The reasons for disclosing such information publicly have to be compelling and the necessity to do so must be justified. In our view, the bills did not set out proper justification for requiring labour organizations and their executives to disclose their political activities or views. That is, by far, the most sensitive type of information.

The bill also required the disclosure of certain financial information, including wages and salaries, and contracts over a certain amount, as my colleague from the Canadian Bar Association pointed out earlier. The main issue was the requirement imposed on union executives to disclose their political activities.

[*English*]

The Chair: Thank you.

Mr. Yves Robillard: I could share the rest of my time.

The Chair: You have no more time, so there you go. You're being very selfish today. Fantastic.

Madam Benson, go ahead, please.

Ms. Sheri Benson (Saskatoon West, NDP): I want to build on what I would call a bit of rhetoric around the sanctity of the secret ballot. I think the issue is more often the fact that it's a mandatory vote. We heard previously at this committee from both Dr. Slinn and Professor Logan that both in the United States and in Canada the under the mandatory vote system, employers are notified, and it allows employers time in order to access employees and also intimidate them, which is the case according to what we found in the research.

We were even aware of some research the previous government did that wasn't released, and so I think it's a bit of a red herring to talk about the secret vote.

The point is that with a mandatory vote that notifies employers, we know that people don't get representation from unions because of intimidation from employers.

Mr. Yussuff, I wonder if you want to expand on that a little bit.

Mr. Hassan Yussuff: In the federal jurisdiction we have had card certification for many decades, and it has proven, of course, to be a clear way for workers to indicate whether or not they want to belong to a union.

If the board is uncertain about whether or not there is support for a union, the board itself can order a vote. Of course, on many occasions when there has been a vote, the board has found that employers have truly interfered with the workers' ability to choose the union. At the provincial level where a vote is the only form of indication to join a union, the evidence has been quite clear. Never mind my saying it; that's what the academic research has told us, that it clearly allows the employer to interfere with the right of workers to join that union. The situation is similar in the United States.

Why would an employer care if the workers want to join the union? If it's their free democratic and constitutional right in this country, why would employers want to interfere in it other than the fact that if you do have a vote, it gives the employer time to use all kinds of tactics during the time the vote has been ordered? I could list some of the companies that clearly said they were going to close the facility, or cut people's salaries, or lay people off. Of course, ultimately it changed the workers' ability to truly exercise their free choice.

The evidence is there. Within the federal jurisdiction, it has worked very successfully. Again, the bigger question is that other than for ideological reasons, we don't know why this private member's bill was brought forward in the first place.

● (1605)

Ms. Sheri Benson: I'll move to Mr. Mazzuca.

We heard previous testimony as well—and maybe this is more a question for the Privacy Commissioner—about some of the commercial privacy concerns of those employers involved in the tendering processes, whereby their involvement in labour trusts and training programs would be revealed.

I wondered if anyone can comment regarding commercial privacy concerns and not wanting to have them revealed to your competitor in a tendering process. Employers and private employers shared with us that that was a huge concern.

Mr. Michael Mazzuca: Given the detailed type of disclosure that Bill C-377 would require, certainly a lot of commercial and possibly commercially sensitive information would have been disclosed on a public website. Service providers to trade unions and probably more so to the so-called labour trusts would have had to think twice before entering into those kinds of commercial transactions if they knew that things such as their billing process, their billing amounts, and hourly rates would all be publicly disclosed.

Because of the way Bill C-377 was drafted, and in particular because of its definition of labour trusts, there was concern about it going well beyond the labour movement. It would have encompassed anybody who did work with union members.

Ms. Sheri Benson: Thank you. That's my time.

The Chair: Over to Mr. Sangha.

Mr. Ramesh Sangha (Brampton Centre, Lib.): Mr. Yussuff, you have mentioned that Bills C-377 and 525 were not meeting the requirements that are supposed to be in the labour law. What are your major concerns and why do unions feel they were not able to work properly under Bills C-525 and C-377?

Mr. Hassan Yussuff: I think that throughout the history of the federal labour code—for quite some time in any case—we've had a fairly balanced system. It's not perfect. It has some flaws, and we can do much to improve it. The reality is that every time the code has been amended, whether it's Labour Code part 1 or part 2, much care has been taken to ensure that the right balance is found in improving the code, recognizing that being under the code is one of the greatest protections that workers have.

What these two private members' bills did was to tilt the balance in the opposite direction for unjustified reasons. There was never a clearly stated reason as to what the objectives of these bills were, other than by the two authors of these bills who said, “here's the stated goal”. In one case, on Bill C-525, the member said it was because of “a mountain of evidence” of union intimidation of workers wanting to join unions. The CIRB, the authoritative body that came before the committee to testify, said there was no such mountain of evidence.

On Bill C-377, I don't know what they were trying to solve. This legislation was essentially copied from the United States without any regard to our constitutional structures in this country or without being introduced into law. Former Conservative senator Hugh Segal said Bill C- 377 was nothing more than a witch hunt against unions in this country. The members on the government side at that time saw no reason to pause and reflect on what they were doing in tabling the legislation. The only thing I have to say to you is that this was ideologically driven legislation trying to undermine unions in this country, and it had no clear policy objectives from my perspective.

Mr. Ramesh Sangha: You are expert people sitting here and giving your expert and valuable opinions. We heard Mr. Mazzuca saying that Bills C-377 and C-525 were against the Constitution and against freedom of expression and freedom of association. What are your opinions regarding that? Are all unions diminished in size, or are unions not able to work properly? How are the freedom of expression and the freedom of association affected? Do you have some opinions on that?

● (1610)

Mr. Hassan Yussuff: Clearly, in the context of Bill C-377, in addition to the privacy concerns listed by the Privacy Commissioner, we realized that this bill was going to require us to reveal all kinds of information that no jurisdiction in this country has ever had to in terms of law, except the jurisdiction that came forward with this. More importantly, from our perspective, this bill overreaches into the provincial territory, which is a violation of the Constitution. The Constitution recognizes the provinces' prerogative to regulate labour relations within their jurisdictions. This bill overreaches and uses the Income Tax Act to do it, of all things, in the first place. For many of our organizations, under the federal labour code, if members require financial information from their union and the union refuses to provide that information, they can ask the board to force the union to disclose that information. There have been few, or next to no, cases listed by the board where a union has refused to comply with the requirement of an order issued by the board. That's currently in the current federal labour code. In regard to Bill C-525, we saw this as a bill that had more to do with ensuring that union growth in this country would remain stagnant at a federal level. It would deliberately ensure that workers would have more difficulty in getting their unions certified, because the bill provides ample opportunity for third parties and employers to interfere with that delicate process.

We have always said that if a worker doesn't want to join a union, they don't have to sign a union card. If a majority of workers within a workplace don't want to have their union continue to represent them, they can simply file an application before the Canada Labour Relations Board and a union can lose its rights to represent those workers. Not once during this process did the members on the government side demonstrate that the current system was was flawed. It was amended through a thorough examination led by the Sims task force. Both the CLC at the time and FETCO, the federal employees group, were highly involved in that and were consulted before the law was changed back in the 1990s.

The Chair: Thank you.

Mr. Long, you're up next.

Mr. Wayne Long (Saint John—Rothesay, Lib.): My questions were for Mr. Mortimer, but he's not here yet. He's in the second round.

The Chair: We're in the second round of the first panel.

Do you want to confer for a moment?

Mr. Wayne Long: Yes, just for a minute.

The Chair: Do you want to share your time with Mr. Ruimy? He seems eager to go.

Mr. Wayne Long: Yes.

The Chair: Mr. Ruimy.

Mr. Dan Ruimy (Pitt Meadows—Maple Ridge, Lib.): Thank you all for coming today.

I have a couple of comments first. I would like to respond to my colleague on the other side when he waved a document from Quebec.

Mr. Bob Zimmer (Prince George—Peace River—Northern Rockies, CPC): On a point of order, Mr. Chair, I don't know if this is a place to challenge each other. I think it's right that we have the witnesses who are supposed to be speaking to that testimony and not to each other's.

The Chair: Fair enough. Absolutely.

Mr. Dan Ruimy: I can't respond to...?

Okay. Then I will ask this question.

Were you aware the previous government had a document—which became evident from other witness testimony—that showed that the card check system was actually a lot better than the secret vote? Were you aware of that study?

Mr. Hassan Yussuff: Not until the minister came before this committee.

Mr. Dan Ruimy: The previous government chose not display this, to hide it. Why do you think they would hide a document like this?

Mr. Hassan Yussuff: Because it revealed the truth.

Mr. Dan Ruimy: All right. Now we're moving some place.

Earlier the president of the CFIB came in and talked about the award for the most cumbersome paperwork, which is what would happen with this report. Do you think—based on what you said, Mr. Yussuff, that this was based on the American concept—that asking our unions to complete a document of anywhere from 300 to 600 pages would be fair?

● (1615)

Mr. Hassan Yussuff: The previous government very much touted their desire to cut red tape and not to impose a cost on Canadians. It was a mystery to me why they would be tabling legislation that would require more red tape and thousands of pieces of paper to be filed by unions in complying with the law.

More importantly, of course, for the CRA to meet the requirements of the law and to provide the information publicly on the website would cost the government millions of dollars. I think you may remember that former finance minister Jim Flaherty came out and said it was going to cost the government millions of dollars, only for the government to get mad at him and him to revise his estimate and say that it would not be that much after all. We never did find out what the true cost would be of putting all of the requirements in Bill C-377 on a public website.

Mr. Dan Ruimy: Mr. Mazzuca, I'm having a hard time understanding how we heard of nobody who actually wanted this in the first place. I don't understand that.

With what you've expressed from the Canadian Bar Association—and you were against this—why do you think the previous government did not even listen to your recommendations? What reason do you think they had for that?

Mr. Michael Mazzuca: I certainly can't speak to what their intentions were.

What I can say is that we made submissions to the House committee and appeared before the Senate twice. In fact, we gave very detailed submissions in opposition to the bill. We also stated that if the bill were to proceed, here was a list of the types of labour trusts that should be exempt to make sure that the ambit of the bill was curtailed. All I can say is that we made those submissions and they certainly were not heeded.

Mr. Dan Ruimy: How many members do you have in your association?

Mr. Michael Mazzuca: There are about 36,000.

Mr. Dan Ruimy: That's a lot of people.

You talked about your strong belief that this was a violation of the Charter of Rights and Freedoms, something that we all hold dear in Canada. I am still struggling to understand how a law can be passed that so many people felt was against the Charter of Rights and Freedoms. Could you explain again how you feel it violates the Charter of Rights and Freedoms?

Mr. Michael Mazzuca: Well, we primarily felt that it was a violation of the freedom of association and freedom of expression because it required an inordinate amount of disclosure from unions regarding their political activity, which we've heard a fair bit about. Also, the unions operate in a bargaining situation, and if one side in the bargaining process has to disclose a lot more information than the other, it certainly puts one side at a disadvantage in that bargaining. We felt there was a violation of both freedom of association and freedom of expression that could only be justified under section 1 of the charter if there were a legitimate reason. Again, as you've heard from others, as well as me, if you looked at Bill C-377, it was not apparent what kind of justification there was for those violations.

The Chair: Moving on to Mr. Zimmer, please.

Mr. Bob Zimmer: I just wanted to read a quote that speaks to some of the commentary by the panellists about the constitutionality of this particular Bill C-377 and Bill C-525 as well.

I was a member of Parliament when this was going through our caucus. Some weren't supportive of it; many were. I remember the proponent of Bill C-377 specifically coming and talking to us about what it would take for us to be more supportive of this particular legislation that he had moved, and amendments to it were allowed to proceed.

Understanding what the process was—and I saw it with my own two eyes—I saw how practical it really was. There really was a back and forth. I met with numerous union representatives in my office to talk about their concerns about the bill. I heard comments back that the amendments would address their concerns. Nothing was perfect; some were supportive of it. As a former union member myself, I was supportive of accountability for unions because I think it's necessary.

I just want to talk about the private members' bill process, the way it is. It goes through a process, I wouldn't necessarily say it's a strict process, but a process of constitutionality, and the bill essentially has to meet certain criteria before it's even allowed to come to the floor of the House. This bill passed that test and that particular vetting.

I'm going to also read a quote from retired Supreme Court Justice Michel Bastarache, who is a pretty good authority on Canadian law. It reads:

> I conclude that, if Bill C-377 is enacted into law, it would likely be upheld by the courts as a valid enactment of Federal Parliament's power over taxation under section 91(3) of the Constitution Act, 1867.… As long as the pith and substance or matter of Bill C-377 is related to taxation, the law is a valid enactment of Parliament's powers.... Because Bill C-377 does not attempt to regulate the activities of labour organizations or determine how they spend their money, it is unlikely that a court would find that it limits freedom of association under section 2(d) of the Charter.

What are your thoughts about that quote, Mr. Mazzuca?

● (1620)

Mr. Michael Mazzuca: I appeared with former Justice Bastarache at the Senate hearings and I heard, first hand, his opinion. What I also know, as a lawyer, is that even amongst judges there are oftentimes dissenting opinions, and not all judges, even on the Supreme Court of Canada, are always in agreement.

I do know that many constitutional experts would disagree with former Justice Bastarache. I think you've heard from some of them, and many of them made their appearances before the earlier committees as well.

Mr. Bob Zimmer: So who's right? Supreme Court Justice Michel Bastarache or you, Mr. Mazzuca?

Mr. Michael Mazzuca: Only a court is ever going to render a decision on that.

Mr. Bob Zimmer: My point in saying that is, you even said it yourself, that there are differing opinions. I think we just saw an opinion that's supportive of the legislation. You are not in support of it, but we have some who are in support.

Mr. Therrien, you mentioned in your quote to us that we have as part of the background briefing material from the Library of Parliament that “if unions are accountable to all taxpayers, the Commissioner expressed the view that...”.

Do you believe that unions should be accountable to taxpayers, and why?

Mr. Daniel Therrien: First of all, I think that as a policy matter, unions as well as other institutions should be accountable. To whom they should be accountable is an interesting question. In the first instance, you can easily make the case that they should be accountable to their members.

Should they be accountable to tax payers? I guess it would be along the lines of the reasoning made by Mr. Deltell, that unions receive public funds, in some ways, so that there may be a degree of accountability towards tax payers. My comments had to do—

Mr. Bob Zimmer: Can I then ask a follow up-question to that? I don't have much time; I'm sorry to interrupt.

We've heard comments from Mr. Mazzuca and you...I don't know whether you said to completely repeal the other bills or to support Bill C-4, but why not support a measure of accountability that might change Bill C-377 or Bill C-525 rather than discard them entirely? Why not at least support some amendments to the existing legislation to make it more workable?

If accountability is desired, as I'm sure we could agree, why not just amend the current legislation rather than throw it out in its entirety?

Mr. Daniel Therrien: I'm commenting on the bill before you now, which is to repeal these provisions. If other amendments were before me, I wouldn't comment on what Parliament presents, but I guess accountability is certainly a factor here.

I would urge that there be a balance between measures that promote accountability and measures that respect privacy. Do you have to repeal all of the provisions? Perhaps you do not, but that's the bill that is before us.

I believe that on the whole this bill is much preferable, from a privacy perspective.

● (1625)

Mr. Bob Zimmer: One thing that was a big concern was the private information, with certain health care costs at a lower level. That's why there were amounts that were raised to address those concerns. There was an attempt.

I think it needs to be understood that there was a going back and forth with this legislation. It wasn't just written in stone. It was a private member's bill that solicited input that was heard and received.

Thank you.

The Chair: Apparently we're going back to Mr. Ruimy.

You didn't get enough.

Mr. Dan Ruimy: I didn't get enough.

Well, thank you again.

I'm still stuck on this Charter of Rights thing and on constitutionality. We're in Canada, so I think it's appropriate.

Mr. Mazzuca, in the event that Bill C-4 were not being proposed, what do you think would be the likelihood of a constitutional challenge to Bill C-377?

Mr. Michael Mazzuca: It's not a likelihood, but I think a certainty. We know that it was already being challenged; I believe that was in Alberta. I think that if Bill C-4 were not moving forward, there would be a number of other challenges. A number of provinces had also let it be known that they would potentially challenge it as well. Those aspects of Bill C-377 would be dragged out through the courts for many years.

Mr. Dan Ruimy: Again, I'm stuck on this notion that you, the CBA, shared your concerns about the impact of the bill on pension and benefit plans. Is there anything you want to add, on the impact of benefit plans and pensions?

Mr. Michael Mazzuca: Registered pension plans were exempt through some amendments, but they were one of the very few instances of an exemption. Other items, such as retirement compensation arrangements, training benefits—all of those—were not exempt.

The definition of a labour trust under Bill C-377 was broad enough to include any fund that had union members in it. That's a pretty broad definition. Union members participate in many funds, many of which are not even connected to a trade union, and all of those would have potentially been caught by Bill C-377.

Mr. Dan Ruimy: It's clear to me from your concerns that your association expressed concerns to the government at the time about the constitutionality of this bill. Do you feel that they heard you? Did they give you any reason why they weren't going to follow any of your opinions?

Mr. Michael Mazzuca: All I can say is that we made our submissions. We made our appearances. Nobody then spoke to us about why some suggestions were not being heeded. I don't know what actually transpired. All I know is what submissions we made.

Mr. Dan Ruimy: Okay, thank you very much. I'm going to share my time with Ms. Tassi. She has one minute.

The Chair: Yes, very briefly. We do have to move on to the next panel. So if you have one quick one that's great.

Ms. Filomena Tassi (Hamilton West—Ancaster—Dundas, Lib.): Mr. Yussuff, in regard to these bills, you were very adamant that any change in the Canada Labour Code should be done in a consultative, consensus driven, tripartite manner. Do you still believe that?

Mr. Hassan Yussuff: Yes, I do.

Ms. Filomena Tassi: FETCO said that even though they believed in the spirit of Bill C-525, they knew it was flawed because it was done through private members' business. Do you think that the code should be changed to address replacement workers using private members' legislation, like the legislation the Conservatives moved with Bill C-525 and Bill C-377?

Mr. Hassan Yussuff: I can't comment on what private members can table. Obviously, private members are going to continue to table whatever legislation they think is appropriate. However, I think the Canada Labour Code should be a consultative process, and as such, ensure that both employers and unions have an integral part to play in that process. If we're not consulted, sometimes the law could have unintended consequences.

Ms. Filomena Tassi: So the tripartite process is the preferred process with respect to major changes to the Labour Code.

Mr. Hassan Yussuff: Yes.

● (1630)

Ms. Filomena Tassi: Mr. Mazzuca, I know you're here as a representative of the Canadian Bar Association, and we've heard about the extent of your membership. When you made your comments here, your comments were representative of the membership.

Could you comment with respect to the opinions that you have heard. I know judges vary on opinions, but could you represent the overall opinion on the question that was asked previously?

Mr. Michael Mazzuca: The positions that the Canadian Bar Association takes are consensus positions. They are all vetted by the different law sections, in this case the privacy law, constitutional law, and pension benefits law sections. They are then vetted by the branch chairs in each province, and then by the executive of the Canadian Bar Association, as well as the Legal and Law Reform Committee. We don't vote on every submission but we certainly try to build a consensus,. Where there's no consensus, we take no position.

Ms. Filomena Tassi: And is there a consensus here?

The Chair: Thank you very much.

That concludes this panel. I want to take the opportunity to thank all of our panellists for coming out and speaking to us today. Thank you very much.

Committee, we will be breaking for a very short recess while we get the next panel in, and then we'll be right back at it. Thank you.

● (1630)

(Pause)

● (1635)

The Chair: Let's come to order, please.

Folks, thank you for coming back. We have from the Canadian LabourWatch Association John Mortimer, president, and from the Canadian Taxpayers Federation, the federal director, Aaron Wudrick.

Gentlemen, thank you both for joining us. We're going to give you an opportunity to present your opening statements. We have a full docket today, so if you could keep those to about seven minutes, that would be fantastic. Thank you very much.

Mr. Mortimer, if you would like to, please take the lead.

Mr. John Mortimer (President, Canadian LabourWatch Association): Honourable members, please look at appendix A of our submission. The current web page of the largest Canadian local of the Labourers' International Union says this about union cards:

> Don't sign anything! You do not have to sign anything. Don't be tricked into signing something “to get more information”....
>
> It's just a sneaky way to get a...[card signed].

The horse's mouth speaketh the truth. Union organizers lie.

Employees might be told the card is just to get more information or just to get a vote, but in card check jurisdictions, unionization is the goal and the result of this trickery.

The Minister of Labour, union leaders, academics, and labour boards point to the low number of rulings about such union tactics. The three most relevant reasons are as follows.

For decades, labour boards have ruled that card-signing tactics are not the employer's business. In 2005 the Canadian board stated: “Any disquiet about undue influence or coercion into signing... should be brought to the Board's attention by the employees themselves.” Unions have plenty of talented professionals and outside labour lawyers, funded by their $4 billion to $5 billion in revenue, to challenge employers and competing unions, but with labour boards telling employers to sit down and shut up, it's simply not credible that employees have any practical ability to file charges against unions and miss work to show up and litigate them, let alone to afford a lawyer instead.

Sadly, labour board rulings allow unions to lie to unsuspecting workers. One board ruled that a fraud against an employee is not a fraud against the board and did nothing about it.

Then there is outright card fraud. We got a small peak at the underbelly of a union's tactics in British Columbia via the Purdys case, in which the union was caught, but only years later, for forging employee signatures onto cards.

Is there a political party in this country that has not experienced real problems with card-based membership drives ahead of nomination meetings? Does any of your parties call a membership card a vote? All unions that I know of run their internal affairs with votes and not with cards.

In 1977, Nova Scotia's workers became the first Canadians to get legislated access to a bulwark of workplace democracy, a statutorily guaranteed secret ballot vote, which this bill steals back from federally regulated Canadians.

Appendix C includes a table summarizing the key provisions of Canada's 11 private sector labour codes. Every year in the seven vote jurisdictions, in government-run elections, workers still have been unionized. Even in Nova Scotia, after 37 years of workplace democracy—news flash!—unions have not disappeared. Labour relations have not been set back to the age of the Flintstones there in comparison with card check jurisdictions.

Voting is criticized for reducing the rate of new unionizations. Of course it does so, because votes reflect what informed employees making a government-protected private choice actually want. Getting unionized by trickery, as the labourers' union points out to its members, in a situation in which workers have no real means of litigating and proving the outcome—that is going to be the federal reality for Canadians, if Bill C-4 is not amended or pulled back by the Trudeau government. Stealing the vote from the weakest party, the party that is not at the table with FETCO and the Canadian Labour Congress, and giving the card check back to Canada's executive suite of union leaders is simply wrong and undemocratic. As the Labourers Union rightly implies, a card is not a vote.

Shifting gears. it is very troubling that Bill C-4 is a single bill that also amends the Income Tax Act to take away financial disclosure. MP Hiebert modelled his Income Tax Act of Canada amendments on the American system, which some Canadian unions already comply with. That U.S. law started as the Kennedy-Ervin bill. Yes, none other than Democratic Senator John F. Kennedy and his brother Bobby led the charge at a Senate committee and as President Kennedy implemented the legislation he had championed in the Senate.

Our submission has extensive and accurate content on financial disclosure to factually correct the complete misrepresentations by numerous labour leaders about the state of union disclosure and privacy law in Canada.

Our submission includes proof that workers have had to fight unions over years in the legal system to get even minimal disclosure —proof that there is nothing for taxpayers and watchdogs to hold government of the day accountable to enforce the existing union dues tax deductibility provisions of the Income Tax Act. That is what Bill C-377 was set to finally enable for Canada's now even more-indebted taxpayers.

● (1640)

If you look at appendix E, you will see that across Canada's 11 provinces and three territories and the federal jurisdiction, there are some 32 labour codes—32. Only 10, less than one-third, have any provisions at all dealing with financial disclosure. Nine of those 10 only mandate disclosure to actual union members. Under nine of these codes, unionized employees, who must pay dues as a condition of employment or be fired from their jobs, are not entitled to a shred of financial disclosure at law. Only one of 32 labour codes covers those types of dues payers. There is nothing required under those 32 codes for taxpayers.

In our submission we have the actual wording that will show you how little those provisions actually provide.

Union leaders, and those aiding and abetting their huge campaign to hide from taxpayers and dues payers, have led you to believe that they all disclose, that they must disclose. One union leader wrote that labour boards keep financial statements on file, for the asking. Plain and simple: not one labour board collects and keeps them. That was another lie.

The CRA can go back seven years in our tax returns, but labour boards have repeatedly denied access beyond the most recent fiscal year when a union refused to expose, took union dues, and fought the workers at the labour board and won to keep the prior years secret.

Let's make this even more real. Appendix B in our submission is the cover page from a 2014 petition to a local of the PSAC from workers of the federal government looking for detailed disclosure. As of last week, since 2014, Robyn Bensonhas been silent.

The labour code of these employees is the Public Service Labour Relations Act of Canada. It is one of the 22 labour codes out of 32 that has not a single disclosure requirement for those workers to get access to what's going on at PSAC.

Under the 10, the mere 31% that have limited provisions, I have never read a labour board ruling that ordered any detail. Labour boards just order an income statement, maybe a balance sheet—two pieces of paper—for a $90 million union. That's not disclosure.

The most important topic, finally, that we address relates to the range of assertions that these Income Tax Act provisions had no Income Tax Act purpose. We respectfully disagree. Appendix I contains our very detailed analysis of the act, CRA interpretation bulletins, and Tax Court case law.

Two provisions of the Income Tax Act, paragraph 8(5)(c) and subsection 8(5), read like this: Dues are not deductible to the extent levied for any purpose not directly related to the ordinary operating expenses of the union.

We simply do not know, as taxpayers in this country, if it's $100 million being inappropriately spent, or $1 billion inappropriately spent.

Finally, Bill C-4 should be split in two. Respectfully, for this committee, I do not understand it, as a Canadian, to be constituted to serve Canadians as an Income Tax Act expert. The truth is that Bill C-4 is a form of omnibus legislation moving forward in a rush that reverses achievements of the last Parliament for taxpayers and workers as a political strategy to pay back the union executives who helped this government win its last election.

● (1645)

The Chair: Thank you, Mr. Mortimer.

I apologize, Mr. Mortimer, but a lot of folks around the table don't have in front of them the documents you referred to.

Mr. John Mortimer: I brought written copies previously, but I was told not to bring them this time because you were working electronically.

The Chair: Yes, they were emailed. I'm just explaining some of the confusion. These were emailed. If, for whatever reason you do not have them, we'll make sure they are sent out again.

Mr. John Mortimer: I'm sorry. Otherwise, I would have brought written copies again but I was asked to save trees.

The Chair: Thank you.

To Mr. Wudrick, for seven minutes, please.

Mr. Aaron Wudrick (Federal Director, Canadian Taxpayers Federation): Good afternoon. My name is Aaron Wudrick and I am the federal director of the Canadian Taxpayers Federation. I want to thank the committee for the invitation today. I will be limiting my remarks to the provisions of the bill that relate to the rescinding of certain sections of the Income Tax Act as they apply to unions.

For those who don't know, the Canadian Taxpayers Federation is a federally incorporated, not-for-profit citizens group, with over 89,000 supporters across the country. We have three key principles on which we focus all our advocacy. Those are lower taxes, less waste, and accountable government.

Very simply put, the CTF's view is that the sections of the Income Tax Act that will be rescinded by Bill C-4 represent a step backwards in terms of promoting transparency and accountability with respect to taxpayer dollars.

Obviously, there has been and will continue to be a very heated debate coming from both the union and non-union positions on the impact and desirability of these measures. We would merely say that it should not ever surprise the committee that any stakeholder—union or otherwise—who receives a hefty subsidy from taxpayers will inevitably resist attempts to have greater transparency imposed upon them.

In Canada, unions collect about $4 billion annually in member dues and can spend them as they see fit, with no mandatory public reporting. What makes this an issue for the broader taxpaying public is the fact that unions enjoy a range of tax benefits and special tax treatment that ultimately function as a public subsidy for their activities. Specifically, union dues are tax deductible, as is strike pay. These tax breaks have been estimated to have a net worth of about $400 million a year or more.

Charities receive somewhat similar but not as extensive special treatment, and they are accordingly required to file public disclosure in order to maintain their charitable status. This is the reasoning behind calls for public reporting of union finances. Where any entity receives the benefit of a public subsidy, the expectation of transparency is heightened as compared to those who do not receive a similar benefit.

To be absolutely clear, none of our comments here should be interpreted as opposing the political or social engagement of unions. Unions are legitimate stakeholders and should of course be able to engage in political activities. What we at the CTF object to is that unions are being subsidized by the taxpayer to do so. Indeed, we've even taken up the position that political parties themselves should not receive any, or at least, much less generous taxpayer subsidies. Given that they are subsidized, however, we believe that this special benefit should, as I said, attract a higher level of transparency than without the subsidy. This is analogous to our position on the transfer of public dollars to private businesses, also known as corporate welfare. We oppose it full stop, but if it is going to happen, surely the price for receiving a public subsidy should be transparency and accountability to the taxpayers who are footing the bill.

Finally, and with some regret, we would merely note that it is an unfortunate irony that this new government, which was elected on a platform that promised new and unprecedented levels of openness and transparency, has instead, of late, been making some troubling moves in the opposite direction.

While it's fair to say that the CTF does not support the overall fiscal direction of the new government, at least this is an honest disagreement. Contrast this with the transparency issue, where the CTF was very encouraged by and supportive of many of the Liberal Party's campaign promises. Indeed, our view is that the new government got off to a very good start on transparency by publishing ministerial mandate letters. Unfortunately, it's been pretty much been downhill from there.

In addition to the provisions in Bill C-4, the government has ceased enforcement of the First Nations Financial Transparency Act, which risks leaving many first nations in the dark as to the compensation and expenses of their elected officials. There are of course concerns about withholding information from the Office of the Parliamentary Budget Officer, which I won't belabour here, but in all it adds up to less transparency, not more. It flies in the face of the government's own commitments, and harms its credibility in presenting itself as the purveyors of real change, in contrast to their predecessors. We would certainly urge them to reconsider some of these positions, and looking at Bill C-4 would definitely be an excellent place to start.

Thank you.

● (1650)

The Chair: Thank you, sir.

Our first question goes to Mr. Deltell.

Mr. Gérard Deltell: Gentlemen, welcome to the House of Commons and this parliamentary committee. To say the least, we appreciate your speeches. They are quite different from what we have heard before. That's democracy, and this is the best place for democracy and for each of us to express our views.

[*Translation*]

Mr. Mortimer, I listened very closely to your remarks, and some of the things you said surprised me.

You can appreciate that many people have reservations about the risks surrounding the disclosure of personal and confidential information, such as union leader salaries. Six countries have nevertheless adopted the practice, France, for one, which can't be accused of being a right-wing country. It can be described as a country of rights, but not a right-wing country. Its left-leaning roots are firmly entrenched in history.

[*English*]

Just talk about President Mitterrand, to say the least, and the president we have now.

[*Translation*]

I'd like you to explain something to me, Mr. Mortimer.

[*English*]

How can you explain that here in Canada we are so afraid to be more public on this issue? We are less public on this issue than France, which has a very socialist history?

Mr. John Mortimer: It was both French unions and the government that came together to ensure disclosure. I would draw parallels back to what happened in America when you essentially had a left of centre party, the Democrats, who backed what then senator John F. Kennedy did, because, the equivalent of the day to Mr. Yussuff, the head of the American Federation of Labor, George Meany, advocated the goldfish bowl theory, which was that unions would be better in every respect if the light of day were shed on their activities.

There was a certain amount of support in that period of time in America amongst the most prominent union leaders for what John F. Kennedy did. That has not been here. We have learned from the American government website about illegal activities of Canada's unions involving other political parties in this country because we were able to read in there about donations they made to political parties. For example, when UFCW 1518 in Saskatchewan gave money to the New Democratic Party.

I think it's tragic what's happening here. The current Prime Minister, as a member of Parliament and as a party leader, spoke for pay at union executive meetings across this country before reaching the Prime Minister's Office. He made it clear to those union executives what he was going to do. Bill C-4 delivers.

During the hearings on Bill C-377 and Bill C-525, there were plenty of submissions to read. When I was to appear here before, it was cancelled due to events in the House; there was no submission there other than mine.

I would ask the Minister of Labour, what consultation took place when you met shortly after you got your mandate letter with leaders in this country behind closed doors and told them in no uncertain terms that you would move one bill to take down Bill-525 and Bill-377, full stop, end of discussion? It was a very blunt meeting, I'm told, by people who attended it. This is not consultation. This is favours to Canada's union bosses plain and simple, and workers and taxpayers are the ones who lose.

Mr. Gérard Deltell: Thank you, Mr. Mortimer.

I would like to ask Mr. Wudrick about the secret ballot because for us that is very important. We are democratic. We have been elected under a secret ballot, and we do respect that. To be very democratic, it is better to have a secret ballot.

We are not the only ones who say that, Mr. Chair.

● (1655)

[*Translation*]

There are six provinces in the country with mandatory secret ballot voting. In fact, the matter was brought before the courts in Saskatchewan.

As a side note, I'd like to take this opportunity to once again thank the people at the Conseil du patronat du Québec for their brief. Unfortunately, they aren't with us today. They won't be able to appear before the committee, but I do want to thank them for the brief they submitted.

In it, they point out that, in 2008, secret ballot voting was challenged before the courts. In his ruling, Saskatchewan Chief Justice Robert Richards had this to say:

[*English*]

> The secret ballot, after all, is a hallmark of modern democracy.
>
> Surely, in and of itself, a secret ballot regime does no more than ensure that employees are able to make the choices they see as being best for themselves.

[*Translation*]

Mr. Wudrick, would you say that secret ballot voting enhances a union's freedom and relevance?

[*English*]

Mr. Aaron Wudrick: Thank you. That's not the part of the bill we were here to talk about, but I'm happy to comment.

I do think when we talk about transparency there's obviously a competing interest here. There's the issue of privacy, and the reason there's a tension between these two things is because they are both important, and it is difficult sometimes to offer one and the other. They run into each other.

The reason it is important to have a secret ballot is the same reason we have for electing our officials. If you know people are looking over your shoulder, you may behave differently, and so we think that unless there is a compelling reason to have to show that, they should not have to. We are definitely very supportive of secret ballots for ratifying unions.

The Chair: Now we're over to Mr. Long.

Mr. Wayne Long: Thank you to the presenters. This is certainly interesting discussion.

Mr. Mortimer, former senator Hugh Segal says that Bill C-377 was an expression of contempt for the working men and women in trade unions. What are your comments on that?

Mr. John Mortimer: The only people who didn't like Bill C-377 were the people upstairs. As for the people downstairs, even from a survey done by the building trades unions, when you actually dig through the work they had Léger do for them, you can see that they too found that rank and file, dues-paying, unionized Canadians wanted disclosure.

That's what all the research showed we wanted. But what I saw at the Senate hearing I was at was a chummy relationship between the senator and a very prominent union leader who has been the subject of much controversy down at the Ontario Labour Relations Board, in terms of what goes on financially inside the labourers' union in Ontario.

I was deeply troubled as a taxpayer and as a Canadian to witness that type of thing and to read the statements of Senator Segal, which I thought were unfounded, not based in reality, and political theatre to serve a purpose.

He had an agenda against the Prime Minister's Office, which is what he was really up to, sir.

Mr. Wayne Long: I'm from the riding of Saint John—Rothesay in southern New Brunswick. It's a blue-collar city, a labour city, a very industrial city. I can't find one union member or one union that supports Bill C-377 and Bill C-525. Can you explain to me how it is that I can't find anybody in my city, if it's so popular?

Mr. John Mortimer: Well, I haven't been down there to talk to them. I don't know how it was positioned to them. I read a lot of union literature that went out, which was full of lies and misrepresentation, to the people who had to pay to have that stuff produced to mislead them.

When Jim Stanford, as the senior economist of the then CAW and later Unifor, wrote that, if you're scared of the big, bad, union bully-boss down the hall, just go to the labour board, because they warehouse the statements, Mr. Stanford was either a liar or he was incompetent. As I said earlier, there is no labour board in Canada today or ever in the history of this nation that warehouses financial statements. If he were the person communicating with your constituents, sir, then they were misled.

Mr. Wayne Long: I have another question for you. Actually, I can't believe I'm asking this, but would you consider yourself an ally or an adversary of unions?

Mr. John Mortimer: I would consider myself an ally of them in improving the accountability in this country of the unions to the rank and file people. The Canadian Labour Congress's own research shows how dissatisfied people are.

● (1700)

Mr. Wayne Long: I cannot believe, sir, that you would call yourself an ally of unions after what I've heard you say for the last 10 or 15 minutes.

Mr. Bob Zimmer: I have a point of order, Mr. Chair.

I don't know that it's our job to badger the witnesses who were invited here.

The Chair: I understood. He's trying to ask a question.

Mr. John Mortimer: I'd like to finish answering it.

I'm going to encourage you to go to our website and review the 2003 Canadian Labour Congress research about the level of dissatisfaction they found and why people would not support voting for unions and why people would not support signing union cards—information they've never publicly released since then, because we've done such a good job of pointing out the truth of what's going on.

When Mr. Yussuff said—last year, I think it was—that his research showed that most Canadians thought Stephen Harper had done a good job on their behalf of running the economy, he then did a 32-city tour to run a campaign against him, even though he used their money to find out that they wanted him back.

Mr. Wayne Long: Mr. Mortimer, speaking of your website, on your website you say: “LabourWatch advances employee rights in labour relations”. Is that correct?

Mr. John Mortimer: That's correct.

Mr. Wayne Long: Okay. As an employee rights organization, you must represent workers in many causes against unfair discriminatory employer workplace practices. Is that true?

Mr. John Mortimer: The $4-billion to $5-billion labour movement in this country.... No, we deal with the persecution of unionized Canadians, and I've taken two federal civil servants—sir, I'm going to finish—all the way to the Supreme Court of Canada.

Mr. Bob Zimmer: A point of order, Chair.

The Chair: He's trying to answer the question.

Mr. John Mortimer: The PSAC sued two of its people for crossing a picket line in a civil service strike against the CRA, even though they had a legal opinion that then-president Nycole Turmel admitted said they could not take those people to court.

I helped those people win all the way to the Supreme Court of Canada, sir. That is how I advance the rights of Canadian workers.

Mr. Wayne Long: Can you tell us how many complaints against employers LabourWatch has helped with—of non-unionized workers? How have you helped—?

Mr. John Mortimer: We operate on $50,000 to $100,000 a year, and I have total confidence in the talented professionals and well-funded labour lawyers of Canada's labour movement to go after Canada's employers.

What is wrong in this country, sir, is that we're the only nation left on earth that allows forced union membership, the only nation left on earth that allows forced union dues, and the only nation in which workers are not protected from their union leaders by statute law. BillC-4 is about to remove those protections, which were a victory for them in the last Parliament.

Mr. Wayne Long: Mr. Mortimer, as an employee rights organization, you must have many employee advocacy groups and employee rights champions on your board.

Can you tell me who's on your board, sir?

Mr. John Mortimer: Our board is publicly disclosed and consists of Restaurants Canada, the Retail Council of Canada, Conseil du Patronat du Québec, the CFIB—

Mr. Wayne Long: So you have no employee representation on your board.

Mr. John Mortimer: No. We have employers who can speak on behalf of their employees, sir, because there is no one speaking for employees. It's the same as the tripartite commission—

Mr. Wayne Long: You have no employee representation on your board; yet you say you advance employee rights.

Mr. John Mortimer: That's right, sir, we do, and we do a great job at it. That's why we won at the Supreme Court of Canada on behalf of Jeff Birch and April Luberti.

The Chair: Thank you, Mr. Long.

We are now moving on to Ms. Benson, please.

Are you sure you want to jump into this?

Ms. Sheri Benson: I'll just calm things down.

The Chair: I'd appreciate it.

Ms. Sheri Benson: I have a couple of introductory points, and then I will have some comments to Mr. Wudrick, just around that whole important issue of balancing transparency with privacy, which I agree with you is an important conversation. We started that bit with the witnesses who came before.

I noticed that people have commented, concerning releasing information in France, that there's more transparency. What we also know is that information that France releases is aggregated, so there was a conversation around being able to protect people's privacy and still have transparency.

The matter of wanting to talk about it doesn't mean you're against transparency or against accountability. That's what, unfortunately, clouded this conversation, and it clouded the last conversation.

You have legislation that I feel needs to be removed. My comment to you is that we've heard from employers within the private sector who are very concerned about their privacy, the privacy of the information that would need to be disclosed, which would actually allow their competitors access to private information within their organization in a tendering process. You brought up—and I appreciate it, and it's what we're hearing from the Privacy Commissioner—that you need to be able balance those two.

Can you talk about what that balance would look like?

● (1705)

Mr. Aaron Wudrick: I'd say a couple of things. One is that we don't need to accept that this bill is perfect in order to say that maybe the best thing isn't to throw the whole thing out. I would agree that the bill isn't perfect, as I did when I spoke to it when it came before the Senate committee with the previous government.

I would welcome a discussion about ways in which we address some of those concerns. One of them is, as you say, that if there's information being provided that is too granular, a way to do so is to move to a higher threshold or an aggregate level of disclosure, which then becomes less commercially sensitive.

The other thing I would say is that, for organizations for which privacy is far more paramount and for which it's very important that they keep information private, there's a simple solution. That is to refuse the tax benefit that is attached to these provisions.

Our organization is a perfect example of that.

Ms. Sheri Benson: I'm sorry. Just let me clarify.

I'm talking about employers, not unions. I'm talking about private industry; that because of their participation in training funds, in trusts, in pensions, in benefits, such information would be disclosed to their competitors as a result of the bill that is in front of us that we're trying to repeal, Bill C-377.

Mr. Aaron Wudrick: Do you mean because of the measures relating to the Income Tax Act?

Ms. Sheri Benson: Yes.

Mr. Aaron Wudrick: Okay, I'm a little confused about the distinction here.

My point is that an organization that is more concerned about privacy, for whatever reason, has the right to forgo the benefits that can flow to them under the Income Tax Act.

We are one such group. We have supporters who work for unions, who work in the public sector, who may worry that their employer might find out that they contribute to the Canadian Taxpayers Federation, so we protect their identity.

The tradeoff is that we cannot issue them a tax receipt. If we wanted to raise more money, we could release their names so that we might raise more money, but we would be putting them at risk, and so we choose not to do that.

That is the example that we give to others; that if it is paramount to them that they have privacy, they can forgo special treatment under the Income Tax Act.

Ms. Sheri Benson: Thank you for your comments about at least being open to the fact that we need different levels of information. Just using the word “transparency” and being transparent doesn't mean anything unless it has some value and unless it's giving you information but also protecting the interests of private individuals.

I think the bill is so flawed that there's nowhere to go, and the issue about private, commercial entities having confidential, business-related information released was a real concern. That's why we've had witnesses from all areas—employers, unions, privacy advocates, lawyers—because there was a real concern. I think that we're often just using the words “we want to be accountable”.

The last thing I want to mention is that aggregate information is audited financial statements; that's aggregate information about an organization's financial statements. Many unions post those publicly, including the Public Service Alliance of Canada; it is on their website.

I wonder whether you would like to comment on that kind of information. Many of us, including business and the non-profit sector, use that information as a good way to find out what an organization is doing, what's important to them, where their investments are, and whether they're doing what they say they do, as a way to share information with either the public or with union members.

The Chair: I'm afraid she hasn't left you any time, unless you have a very quick answer.

Mr. Aaron Wudrick: I would simply say that aggregate is certainly better than nothing.

The Chair: Thank you.

We go to Ms. Tassi, please.

Ms. Filomena Tassi: My first few questions are for Mr. Wudrick.

Many supporters of Bill C-377 are employer groups, such as Merit, CFIB, and LabourWatch. They are tax-exempt, non-profit organizations that are funded by members' dues that are tax-deductible, costing the taxpayers millions of dollars per year in lost tax revenues. Merit, which is viewed as one of the chief architects behind the bill, had VIP access to the previous PMO and ministers' offices, influencing the policy on Bill C-377.

Do you believe these organizations should have to publicly disclose their financials in a similar way to what is required under Bill C-377?

● (1710)

Mr. Aaron Wudrick: I would say that if the organizations are in fact receiving a tax benefit that is comparable, yes, I would absolutely think so.

Ms. Filomena Tassi: So, in the case of groups such as Merit, CFIB, and LabourWatch, which are receiving a tax benefit that is comparable, you would say that you would support their having the same requirements as were required under Bill C-377?

Mr. Aaron Wudrick: For us, the trigger for transparency flows from the benefit that one receives from the taxpayer subsidy. If that same benefit is also received by another organization, we would apply the same principle, so yes.

Ms. Filomena Tassi: So if I were to say to you that the benefit is the same, you would say yes, that you are in agreement.

Mr. Aaron Wudrick: Yes.

Ms. Filomena Tassi: Would you encourage the government or private members to introduce legislation for any organizations that receive the same benefit?

Mr. Aaron Wudrick: Yes, we'd certainly welcome the discussion. We'd have to look at what it says, but on principle, yes.

Ms. Filomena Tassi: Yes, you encourage that. Okay.

Mr. Mortimer, I'd like to ask you a question, and in the interests of time, could you just answer yes or no to this one, because I have a couple more that follow.

Do you want the government or private members to introduce legislation similar to Bill C-377 for organizations like yours and the ones you mentioned as being on your board—Merit, CFIB, *Conseil du patronat du Québec*, Retail Council of Canada, and the Canadian Restaurant & Foodservices Association?

Yes or no, would you like to have similar legislation to Bill C-377 implemented for organizations such as yours?

Mr. John Mortimer: It's not possible to answer yes or no. I can give a reason why they're not comparable.

Nobody has to pay—

Ms. Filomena Tassi: So it's no, then, because they're not comparable.

Mr. John Mortimer: Not every restaurant has to pay dues in order to operate a restaurant by power of statute law.

Ms. Filomena Tassi: Okay, how about your organization?

Mr. John Mortimer: Listen, if you want to make all unions give money to LabourWatch so that it can protect workers from unions, then we should have a level of disclosure, but I don't think Mr. Yussuff is going to support funding us to protect the Jeff Birches and the April Lubertis of the world from them.

Ms. Filomena Tassi: No, I'm asking you independently, without anything that you're doing. You're achieving the same benefit. If you're achieving the same benefit, why would you not be held to the same accountability rules?

Mr. John Mortimer: I get the same benefit if there's a statute that mandates that I get money from millions of people amounting to billions of dollars, and that if they don't pay it, I can have them fired, which is how forced union dues work in this country—the last nation on earth that allows forced union dues leading to the termination of people who don't pay them.

Ms. Filomena Tassi: Just as a follow-up, Mr. Mortimer, and again, give a yes or no—please, just respect the nature of the question, as you may just say no—do you like unions?

Mr. John Mortimer: Yes.

Ms. Filomena Tassi: You like unions. Okay. So it's the process of unionization that you have a problem with, not the unions themselves.

Mr. John Mortimer: That's absolutely correct.

Ms. Filomena Tassi: Okay, so you like unions.

Mr. Wudrick, with respect to the filing of the compilation—the requirement under Bill C-377—a couple of weeks ago we had Professor John Logan of San Francisco State University. He talked about the amount of detail that went into the filing under Bill C-377, or of a report like it. We previously had a thick document that showed the current requirements under Bill C-377 for unions to file. His point was that staff were spending more time compiling the information than they were doing their duties.

Do you have any comments with respect to the requirements, which go above and beyond anything I've seen under Bill C-377?

Mr. Aaron Wudrick: If it's a question about red tape and you're asking us whether we like it, then the answer is probably that we don't like it very much. But I recall that, especially at the previous hearings on the bills, many of the union witnesses were making a curious argument, which was that this was very onerous and that there was a lot of red tape involved, but at the same time that they already provide this information to their members.

I found it odd that it could be both. If they're already providing it to the members, why does it require from them a whole bunch of extra effort to get this information together for the purpose of satisfying the bill?

● (1715)

Ms. Filomena Tassi: What I would say in response to the testimony I've heard is that it went above and beyond that. For example, when you look at what charities are required to file so they can account, as you said previously, the document is probably about half of that, from what I've seen, for a regular charity. When I saw the document that was a sample of what Bill C-377 requires, it was ten times this length. The legislation clearly goes above and beyond what is generally accepted.

My next question—

The Chair: You have about 30 seconds, so if you want to wrap it up....

Ms. Filomena Tassi: Do you think it's more than a little self-serving and hypocritical that organizations such as CFIB, Merit, and LabourWatch, which are anti-union and would benefit from any measures that restrict unions, at the same time have their members enjoy the exact same tax benefits as unions but don't want public transparency for themselves?

The Chair: I'm sorry, but I'm again going to have to ask you to give a one- or two-word answer.

Mr. Aaron Wudrick: I think they should be consistent in defining their principles, but we're one of the few groups that seems to do that.

Ms. Filomena Tassi: Thank you.

The Chair: Next we go over to Mr. Long.

Mr. Wayne Long: Mr. Mortimer, I guess I don't understand why you just don't come out and say that you're anti-union and that LabourWatch is really an employer organization.

It's not an employee organization, is it, sir?

Mr. John Mortimer: The reality is that in the same way we say that unions speak for workers, who then speaks for Canada's workers who aren't represented—and even if they are?

I was the North American head of human resources for Future Shop back when the Vancouver family that fled Iran still owned it, before they sold it to Best Buy. We were deeply concerned about our employees and how life was for them, because they were necessary for us to serve our customers and stay in business. There are things that we made sure we did on behalf of our employees, from a legislative point of view and from a policy point of view, so that they could deliver for our customers what kept us in business and kept the doors open.

As I said earlier, the reality is that there is no.... Let me give you this example. A worker in Canada who has issues with their employer can go to employment standards or to human rights bodies and have a government-paid bureaucrat assist them against their employer. The only employment legislation in Canada in which there is no service to the worker is labour codes. If you go to any labour board in Canada with an issue with your union, they will say "we're neutral, we can't do anything". But if you go to workers' compensation, human rights, employment standards, labour standards and you have an issue with your employer, they are going to help go after your employer for you.

LabourWatch came about, at the end of the day, because no one was looking out for Canada's unionized workers. They're not at the tripartite table. To say that unions, who don't speak for the 83% of the private sector who are union-free, actually speak for them is a contradiction in terms.

I believe that employers can and do speak to them, and that's what LabourWatch does.

Mr. Wayne Long: So you have many unions that support LabourWatch?

Mr. John Mortimer: We have absolutely none that I know of.

Mr. Wayne Long: Okay, but you're an employee rights organization?

Mr. John Mortimer: Let's talk about what the labourers said about the union cards.

Mr. Wayne Long: You have no employees—

Mr. John Mortimer: Let's talk about what the PSAC did to Jeff Birch.

Mr. Wayne Long: Sir, you have no employee representation on your board. Is that a fact?

Mr. John Mortimer: That's absolutely correct, other than the employees of those organizations, who are also employees.

Mr. Wayne Long: What about employee rights organizations and labour lawyers who specialize in defending employee rights, such as the Canadian Association of Labour Lawyers? Why don't you have any employee representation—

Mr. John Mortimer: When employees—

Mr. Wayne Long: —on your board?

● (1720)

Mr. John Mortimer: —call lawyers to try to get help against their union, the members of CALL say, "We're not going to help you because we act for unions, and we're not going to act for you against the union." Then, when you call the management side of the bar, this is what they tell workers: "We act for management and we don't act for workers".

It is almost impossible as a unionized Canadian to get an expert labour lawyer to represent you down at the labour board in this country, because they won't take your file.

Mr. Wayne Long: I would understand—and actually have a little more sympathy for you, to be perfectly transparent—if you just came out and said, "We are anti-union and we are anti-employee." But you won't say that, will you?

Mr. John Mortimer: No, because I'm not going to lie.

Mr. Wayne Long: Let's talk about the bill. I think it was in 1959 and introduced by JFK. Do you think that was anywhere close to the current legislation that's in play right now in the U.S.? Do you think it's fair—

Mr. John Mortimer: It's only had one modification since 1959.

Mr. Wayne Long: There were two, sir, from George Bush and George Bush, Jr.

Mr. John Mortimer: There were the 2003 amendments.

Mr. Wayne Long: But you came out and basically compared that to JFK, to that legislation back then?

Mr. John Mortimer: Everything has a starting point in terms—

Mr. Wayne Long: Do you want us to believe that?

Mr. John Mortimer: —of legislation and the comprehensiveness of it.

Mr. Wayne Long: But for the record, you didn't for one second—

Mr. John Mortimer: John F. Kennedy led the charge to clean up the corruption in American unions, just as the Charbonneau commission exposed was going on in these unions in Quebec. Ken Pereira bravely exposed what went on. People have been criminally charged for what went on in Quebec, okay?

Mr. Wayne Long: [*Inaudible—Editor*]

Mr. John Mortimer: Kennedy was actually a very brave man in that day and age given the level of corruption that was going on in American unions.

Mr. Wayne Long: I just think—for the record—that you misrepresented that earlier.

Thank you.

Mr. Wudrick, welcome.

The Chair: You have about a minute, sir.

Mr. Wayne Long: You suggested that the transparency brought by Bill C-377 would act as a deterrent to unlawful activities. What do you base that assumption on?

Mr. Aaron Wudrick: It's not an assumption anymore than it is when I say that we call on MPs and senators to scan and post their receipts online. It doesn't mean that everything that MPs and senators spend money on is illegal or wrong, but it makes it more likely that it will be detected sooner, because the public can see it.

The Chair: You have about 30 seconds. You're good...?

Mr. Wayne Long: I can keep going.

Can you give me a situation where unlawful activities of the type you mentioned arose because of the lack of oversight?

Mr. Aaron Wudrick: I'm not sure if I meant unlawful so much as that the purpose of the dues be known to the person paying. That's my concern.

It's that if you're paying union dues and your understanding is that they're going towards the management of the union, but in fact they're going towards political advocacy or activism, for example, as the person paying those dues, I would want to be aware of that. Having transparency would let me know.

The Chair: Mr. Zimmer, please.

Mr. Bob Zimmer: I wanted to ask you to explain a fundamental difference. We've heard a lot of comparisons between charities and unions. Can you explain the fundamental difference between a union and a charity in terms of tax reasons and mandatory dues?

Let's start with Mr. Wudrick.

Mr. Aaron Wudrick: I think the difference is quite obvious. Much like taxes, dues are mandatory. You cannot opt out of them.

In fact, unions are unique in that sense, in that they have essentially the power to tax in the way that governments do. That is also the reason why we draw a similar analogy when we talk about why transparency requirements incumbent upon governments should also be imposed on unions: because they have a special power that no businesses—which obviously must get customers in order to generate revenue—or charities, or non-profits have.

A group like ours receives no mandatory money. If we do not keep our donors happy, we go out of business. That is not the case for governments, and it's not the case for unions.

Mr. Bob Zimmer: I'll hopefully not take too much time, but as a former union member I still remember my first union meeting as a member of the BCTF. In that meeting, as a newly minted teacher, I sat there just wanting to listen to what was going to go on. In that meeting, I was told how to vote in the next provincial election.

In that particular meeting, they were chastising anybody who wouldn't vote for the NDP. That offended me because, for me, the union should be non-partisan in nature because they've received my dues, and they shouldn't be instructing me on how to vote in a particular election, regardless of whether it's federal, provincial, etc. That was my thought.

What are your thoughts on that, Mr. Mortimer?

Mr. John Mortimer: These are the kinds of stories we hear all the time, the one that you experienced. I think paragraph 8(5)(c) of the Income Tax Act talks about ordinary operating expenses of the union. Tax court case law, in a CRA interpretation bulletin, says a union that gives money to the Vancouver International Film Festival isn't spending it on normal operating expenses and, therefore, that those dues aren't tax deductible.

Mr. Bob Zimmer: I'll go into the next phase of this particular teachers' meeting I was at.

After that particular discussion, I challenged the then president by saying that shouldn't be going on. It was the next conversation I had that was troubling, as well. I saw my union dues being used to campaign for the NDP provincially and also advertise for the local NDP candidate in our union paper. That to me was problematic.

Your thoughts on that, Mr. Mortimer?

Mr. John Mortimer: Bill C-377 was going to bring that all out into the open. If you look at the SR and ED interpretation bulletins and the case law of the CRA, what you see is that the time that people spent was assessed by the CRA in terms of whether or not it complied with that part of the tax act.

When people leave their day job where they should be pursuing grievances and bargaining, and they go out and they work on a campaign, or they go out and do something that is unrelated to that employee's workplace, that would not qualify under the Income Tax Act of Canada as a tax deductible due for the paying of the salary of that person.

● (1725)

Mr. Bob Zimmer: I'll bring this all together. If unions supported us, I would be happy. I don't think unions should support political parties, period. To say another thing, I thought it was interesting that the provincial premier of Ontario has a seven-point plan come out where she says that union dues will not be allowed as part of a political contribution. To me, it shows that even Kathleen Wynne is moving in the correct direction with regard to union donations. The key difference is that it's a captive audience. As a dues paying member, I don't have a choice as to where those dues are being paid. They're not meant for that in the first place. They're meant for other union issues, and bargaining, and other mandates they're given.

As a last question, and it's a big one, you've alluded to the fact that you would rather fix both acts than get rid of them. Mr. Wudrick and Mr. Mortimer, how would you fix both acts? I think you probably have 30 seconds each to respond.

Mr. John Mortimer: There was nothing wrong with the secret ballot vote bill. We have votes for decertification, but we don't have card check decertification. This government is going back to a dishonest, non-level playing field for workers by putting it back to the old way where they have to get 50% plus one and endure a vote, and the unions are going to get the card check system back.

Mr. Aaron Wudrick: I would say on Bill C-377, and the issue which seems to centre around the granularity and detail of disclosure, could we not simply move toward a level that would put people at ease in terms of the information not being so commercially sensitive?

Mr. Bob Zimmer: I think the key is accountability, and that is why we enacted the legislation to begin with.

The Chair: Moving on to Ms. Tassi, you have maybe three minutes.

Ms. Filomena Tassi: My question is for Mr. Mortimer. The LabourWatch website says, “Members must be committed to the purposes of LabourWatch, be nominated by another Member, and be approved by the Board of Directors”.

LabourWatch is a closed member organization, but it receives tax benefits for itself and its members by virtue of being tax exempt and funded through members' dues that are tax deductible. That is correct, isn't it?

Mr. John Mortimer: The fundamental difference remains that nobody has to fund us, and nobody has to join the Retail Council, or the CFIB, in order to operate a retail business or to operate a small business in Canada.

Once again it's apples and oranges to compare the power unions have in statute law. There is no statute that guarantees the CFIB any money whatsoever and none for the Canadian Taxpayers Federation. The same is not true of unions. You're sitting here trying to play trap-me games by comparing apples and oranges, and I will not go there.

Ms. Filomena Tassi: I'm speaking specifically of the tax benefit. Would you agree that you get the same tax benefit?

Mr. John Mortimer: No, we don't.

Ms. Filomena Tassi: What is different in the tax benefit? I'm not talking about dues, or membership fees, or—

Mr. John Mortimer: It's the totality of the system.

Ms. Filomena Tassi: Well, I'm having a hard time understanding how you do not receive the benefit that you're alleging the unions receive. You're receiving the same tax benefit, but you want different reporting requirements to be targeted towards the unions.

My next question is for Mr. Wudrick.

Have you undertaken any public awareness campaigns or lobbied government concerning public disclosure for the types of organizations we are talking about, so that they would similarly be required to comply with the provisions of bills such as Bill C-377?

Mr. Aaron Wudrick: No, in fact, we haven't even undertaken it for unions. We were simply asked to appear at committee on several occasions.

Ms. Filomena Tassi: You spoke at the Senate Standing Committee on Legal and Constitutional Affairs about a year ago, claiming that your organization, the Canadian Taxpayers Federation, supports the principle of privacy.

How can you justify the distortion of enforcing Bill C-377, which itself violates privacy? We've heard that from previous panels in previous weeks. How do you reconcile the violation of privacy requirements by Bill C-377?

● (1730)

Mr. Aaron Wudrick: In our view there's a spectrum between privacy and accountability. When one receives the benefit of public funds, I think that tilts the demand, the threshold, more towards transparency than towards privacy.

If privacy is a paramount concern, you should be willing to forgo special tax treatment, which is exactly what our organization does.

The Chair: Thank you very much, gentlemen. I think I can say about this discussion that definitely you guys get the most passionate panel award. Thank you for that. I really appreciate your both coming here today and speaking to this group on this issue.

We have one final hour today, committee. We'll break for a very quick health break and go from there.

Thank you.

● (1730)

(Pause)

● (1735)

The Chair: Could we come back together, please?

We have a brand new, fantastic panel to speak to us. We have a little committee business that we're going to have to squeeze in at the end. I know I'm being a taskmaster today, but I want to get through everything.

I would like to welcome from Canada's Building Trades Unions, Robert Blakey, Canadian operating officer, and Neil Cohen, executive director; and Sandra Guevara-Holguin, an advocate from the Community Unemployed Help Centre; and Hans Marotte and Laurell Ritchie from the Inter-Provincial EI Working Group.

Thank you all very much for coming here today.

We're going to keep the opening remarks to under seven minutes, please. We've got such a big group, we want to make sure we get to everybody.

We'll start with Mr. Blakely.

● (1740)

Mr. Robert Blakely (Canadian Operating Officer, Canada's Building Trades Unions): Thank you very much.

As a result of the short notice, I haven't been able to get you any written material, but I undertake to do so in a timely fashion.

Thank you for having a look at this topic. I think the entire EI system needs to be looked at, but this is a great place to start.

I come from the construction, fabrication, and maintenance industry. We represent about 500,000 Canadians, 8% of all direct employment in Canada, and 14% of Canada's GDP. It's an industry that is transitory for both employers and workers. Every construction job ends. It is not unusual to have several employers over the course of a year, and it is extremely and highly unusual to ever have a career with one employer. The industry conforms to this characteristic of worker mobility both in its training structure and in the hiring halls we use. Our work patterns aren't very well understood: we have long hours, few days off, with periods of unemployment in-between.

At the outset, let me say that it supposed to be employment "insurance". When I went to law school, insurance was a contract of indemnity against a foreseeable event. If you are unemployed, that is the foreseeable event, and you ought to get something. It doesn't work that way in our business now.

Your request talks about the issue of denials and the issue of access. Sometimes—and I've laboured through this a lot—people say that it's easy: let's just go back to the past. I'm likely the only person here who has spent a bunch of time in my hometown at the board of referees for unemployment insurance, as it then was, and then employment insurance. The truth is that the board of referees has been replaced by a tribunal of people who can sit in their PJs at home, having a look at everything, having coffee, and looking at a pile of papers, most of which are supplied by the commission. It is a poor way to deal with the issue of appeals for EI.

You know, you need to be able to get.... Sometimes, inarticulate people need a chance to be able talk to a human being to find out what the story actually is. Having the board of referees allowed those people to develop some local expertise in things like urban and rural, seasonal, and distance.... It gave them an opportunity to have a couple of people there who knew something about hiring halls. It gave those people an opportunity to understand the local labour market and to have some knowledge.

It also allowed people to explain a reason: "I didn't take the one-week job because I was at the top of the out-of-work list, and if I waited another three days, I would get a job that lasted eight months". People don't know how to express those things, and when they're sent into the current set of tribunals, it doesn't work. The system is supposed to function in the interests of the people who are actually the claimants who fund employment insurance.

We have a series of hiring halls. We have roughly 300 hiring halls across the country that dispatch people to go to work in various places. We're not the only unions that run hiring halls. Other groups of unions do as well. Theoretically, in the last review of EI, hiring-hall agreements were deemed to be acceptable and were preserved in place. It simply depends on where in Canada your hiring hall is located as to whether Service Canada thinks you have a valid hiring hall agreement or not.

The premise of the hiring hall is a pool of skilled people. Employers invest in those people, paying somewhere in the vicinity of 25¢ to $2.50 an hour to get the workers trained. We maintain an infrastructure of $750 million across the country and spend $300 million a year training people at 175 training centres. There's an enormous investment there.

● (1745)

Threshold training may come from the community college, but the union training centre does all the graduate-level training, specialist training, refresher training, upgrading, and supervisory leadership training. They do that to maintain a pool of skilled workers whom they can call on when they need them.

We do the job search for the workers. We share work through the hiring hall. This is of enormous value to our employers, who actually agree with us that this is something that needs to be preserved.

The second point is on denials. People who take training are supposed to be in receipt of special benefits under sections 12 and 25 of the act. That isn't always the case. What ends up happening frequently is that people who go through their apprenticeship have to use regular benefits in order to go through training. Those are four or five periods of apprenticeship training. They have to use their regular benefits, not special benefits. When they get a journeyman certificate and enter the industry as full-fledged participants, they're already frequent users of EI. This doesn't work.

At the end of the day, we are still going to lose 25% of the construction industry in the next seven years. The baby boom generation is going to retire. We need to get access for people. The regional system of EI doesn't work very well. If you live in southern New Brunswick, you need 600-plus hours to qualify for 17 weeks' benefit. If you're a half a mile north, in northern New Brunswick, it's 300 hours over 52 weeks. This doesn't make sense.

We'll send you some material. I'll answer any questions you have.

Thank you very much for undertaking this. It looks to me like it's the start of a major review of EI, which is something that needs to happen. EI should not be an ideological football. It should be a principle-based system.

The Chair: Thank you, Mr. Blakely.

Now, we have Mr. Cohen for seven minutes, please.

Mr. Neil Cohen (Executive Director, Community Unemployed Help Centre): First, I want to thank the committee for undertaking this important work, and I want to thank you all for the opportunity to be here today. As with Robert and, I suspect, many other witnesses, given the short notice, I haven't had time to prepare a written submission in advance, but I certainly intend to follow up after today with more detailed comments. This is going to be a very quick overview of the kind of work that we do.

I'm joined today by Sandra Guevara-Holguin, an advocate with the Community Unemployed Help Centre. She's been with us for eight years now. I wanted Sandra to be here, in particular, because if I were here on my own and had sufficient time, I would probably do a high level policy analysis of the history of EI going back to 1940, and how the current system is failing workers. I would talk about the program structure and the way things should be, and things of that nature, but I think what Sandra brings is of real value, because she can talk about what she sees on a daily basis, acting on behalf of unemployed workers over the last eight years.

I want to begin by talking very briefly about the Community Unemployed Help Centre. We've been operating since 1980. We're a non-profit community-based organization located in Winnipeg. Although we provide direct services to unemployed Manitoba workers on issues pertaining to EI, we also do a lot of social policy work at the national level with some of our partners, particularly, the Canadian Labour Congress, and similar organizations throughout the country.

We were created to provide information, advice, and representation for unemployed workers. We have had a history of appearing before umpires and boards of referees. We also have extensive experience making requests for reconsideration and appearing before the Social Security Tribunal.

We're a small organization. We're a unique organization. There are not many similar organizations in this country. We certainly share a lot in common with Mouvement Action-Chômage, where my colleague, Hans Marotte, is employed. We provide essential and important services to unemployed workers in need.

You will understand—and I think we all share in this—we're dealing with a highly complex program which is not easily understood by the public at large and, dare I say, even by politicians. It's often been said that the Unemployment Insurance Act is the most complex act in government. We're dealing with a lot of adjudicatory issues that are very hard to decipher in terms of entitlement to benefit.

I want to focus on three areas very briefly. First, the program design really has to be reconsidered. I want to remind members that workers pay five-twelfths of the cost of the program, and the program is failing workers. I remember a recent EI commissioner for workers forum. I said to the minister at the time that if the EI program went to the private market, no one would buy it. I want to share that with you because we know, for example, that only 40% of workers who are currently unemployed receive EI benefits.

We look at the financing of the EI program, and you hear calls repeatedly from business that they want lower premiums and that premiums are a job killer. I want to tell members that in 1990, when the government withdrew from financing the EI program, the EI premiums for employers were $3.07 per $100 of earnings, and today they're $1.88. There has been a constant pressure to lower premiums, and that's done by reducing entitlement to benefits.

Historically, over a period of time, the trend since 1990 has been to require workers to work longer in order to receive benefits, to shorten benefit duration periods, to increase penalties for workers who quit their jobs or are fired. The service that they're getting certainly fails to meet standards of reasonableness. We're certainly aware of the issues.

I hope all members of the committee have had an opportunity to read at least the executive summary, the monitoring assessment report, which addresses some of these issues and the fact that 30% of workers who contact the Service Canada office receive a blocked call. That means they don't even go into the queue.

These are the kinds of things that Sandra sees on an ongoing basis. The program structure really needs to be reformed so that workers have a reasonable chance of entitlement to benefits for a reasonable period of time at a reasonable rate.

The second issue, certainly, is one of appeals. We do not support the change to the Social Security Tribunal. Most appeals end. The EI Monitoring and Assessment Report, for example, again indicates that 45% of decisions are overturned. That's an appalling rate, and it shouldn't be the case. Decisions properly adjudicated with the assistance of staff at Service Canada should be reasonably approved and should not be overturned at a rate of 45%.

Governments have told us that the system is working because few people appeal to the SST, for example. I would submit to you that few people appeal to the SST because dealing with Service Canada means encountering a succession of speed bumps, starting from the time one tries to call Service Canada and is unable to get through. Then, one encounters claim processing delays, which create another deterrent. Then one goes through the request for reconsideration stage—another deterrent. By that time, one is sufficiently discouraged from even pursuing their appeal rights to the social security tribunal.

● (1750)

That's the other area that we think really requires additional examination. We would certainly call upon the government to look at a major review, with meaningful consultation with stakeholders, particularly organizations like ours, which has a unique perspective and unique experience. In any given year, we do about 300 appeals, and our success rate on appeals has historically been, since 1980, over 80%. We have a good track record and we have a good body of cases upon which we can draw.

What's my time like? I would like to turn it over to Sandra now.

The Chair: You left her a minute.

Mrs. Sandra Guevara-Holguin (Advocate, Community Unemployed Help Centre): At any given time we have 300 cases, and four months is the average wait for a request for reconsideration to be processed. People are waiting four months to know what's going on. Most of the time we have to go to the social security tribunal.

As an example, I have a case of a person who was denied benefits on June 23, 2015. He finally has a hearing with the social security tribunal on July 12 of this year. During this whole time, he hasn't had access to EI at all.

In terms of my personal experience, I tried to call the general inquiry line last April 27. I went there. I called. I had the SIN number of my client, and the access code. The first message that showed up was that if you've provided all the records of employment and documents requested, it is not necessary to call. Mind you, there are eight weeks between the time you submit something to employment insurance until you hear from them.

After I went through that, I was lucky enough to get into the queue. The message I got was that my waiting time was an estimated 45 minutes. Who is expected to sit down for 45 minutes to get an answer as to what's going on?

My second try was to create a “My Service Canada Account” for my client. This particular client is an elderly client, so he cannot do that on his own. He does not have a computer. I tried to do it for him, and it took me an hour to create the account. When I finally got there, and I went to the most updated messages, it just said that his claim was in process. It has now been four months, and this person hasn't seen any benefits.

This is just to let you know what my front-line experience is with clients. I have at least 70 active files right now, and all of them are delayed: four months—to hear from them, to seek a decision—for all of them.

Thank you.

● (1755)

The Chair: Thank you very much.

Now over to Ms. Ritchie, please. Thank you.

Ms. Laurell Ritchie (Co-chair, Inter-Provincial EI Working Group): Thank you very much.

I'm speaking on behalf of the Inter-Provincial EI Working Group, which was formed in 2013, inspired by some of the EI coalition work in places like P.E.I. and New Brunswick, and of course groups in Quebec. As well, the Toronto-based Good Jobs for All Coalition has an EI working group, which I co-chair.

We most recently—this won't surprise you—have been joined by representatives from Alberta and Saskatchewan.

We developed a joint statement at that time, and in May 2014 issued it with signatures from well over 100 organizations from coast to coast endorsing the position. As you will appreciate, it is not easy to reach consensus across the country no matter what the issue, but that has been done, and we did also issue a statement this year to the government representatives and opposition parties with respect to the budget, EI reforms, and, in particular, stimulus spending.

There are four areas that we would like to see the HUMA committee direct its attention to, and I can't help it, but somebody said earlier that with these short presentations we have to keep our "sense of HUMA".

Some hon. members: Oh, oh!

Ms. Laurell Ritchie: Sorry about that.

There are four areas that we want to cover.

First of all, we're obviously pleased to finally see some changes to EI in the budget. We want to see some of those moved up, though, from the times that have been set, whether we're talking about the 910-hour rule for new entrants and re-entrants or others.

We think some of them have gotten lost in the shuffle of the changes that did happen in 2012 and into 2013. We lost the hiring hall provisions. We lost parental and sick benefits for workers employed under the temporary foreign worker program. We had additions—many would say politically motivated additions—of new EI regions in Prince Edward Island and Canada's north, to the detriment of workers. In all, though, those who have suffered most are the low-income workers and the precariously employed workers.

We'd like to see that moved up.

Secondly, there are the rampant problems with EI service delivery and the appeal system. Others have spoken on this, so I won't dwell on it except to say that we're very much in agreement, and it is a shared experience across the country.

Thirdly, there is a need to ensure an independent EI account and to ensure that EI contributions are used exclusively to fund EI programs.

The piece I want to focus on is the fourth one. I'll make just a few comments. It is about the need to fast-track a significant review of the EI system. I'm going to quote from a certain party's political statement at the time of the election, because we couldn't have said it better:

> ...to assess how successfully the Employment Insurance system is delivering its core mandate to provide income security to workers in a changing labour market. This will result in changes to the program that ensure more Canadians workers, particularly those in more insecure work, can get access to the benefits they need.

We think that review needs to happen and needs to be expedited. It needs to involve a lot of organizations on the ground, whether they be legal clinics or unions and the many others that are doing that kind of work.

Again, the business of there being an average 40% of unemployed receiving benefits is really the result of a couple of things. One is that those who don't qualify for benefits can't under the current rules; in particular, for problems with the hours system, that needs a complete rethink. Secondly, there are those who fall off benefits before they are able to find any work.

As a result of all of this and the need to make these kinds of changes, we do think that the government should be holding off on the premium cuts. If you can rethink definitions for who gets the 5 extra weeks and the 20 extra weeks, we think you should reconsider the premium cuts, because we need to know first what improvements need to be made in this system before we go reducing benefits even further.

● (1800)

We find it disheartening to see the debates focusing on the extra five weeks and on who, in addition to the existing 12, will get it. It used to be that there were five more weeks than we have now, right across the country. When you have both Calgary and Montreal currently with the same rates of unemployment, and now potentially up to 67 for those in Calgary and 42 max in Montreal, no wonder there are resentments building up.

We really think the hours system, which dictates entrance as well as duration, needs a complete rethink. It's based on the 35-hour week. The chart, the grid, is in 35-hour increments. We're long past the day of an average 35-hour work week; 80% of workers, according to the labour force survey most recently, are in the service sector, and the service sector average for paid employees is less than 30 hours.

Thank you.

The Chair: You have about 30 seconds.

[*Translation*]

Mr. Hans Marotte (Lawyer, Inter-Provincial EI Working Group): Good afternoon. My name is Hans Marotte, and I am from the Mouvement Action-Chômage de Montréal.

If you were going to take away only one thing today, it would be this. The legislation currently deters those who know and penalizes those who try.

Last week, I defended an individual by the name of Maria. She worked at a company for 15 years before losing her job. She qualified for and began receiving employment insurance benefits. She then spent two weeks working at a job that was absolutely unacceptable, so she quit and is now no longer eligible for benefits. That means that a person receiving employment insurance benefits who then accepts employment cannot quit that job unless they show that they had no reasonable alternative to leaving, under section 28 of the Employment Insurance Act.

When someone on EI comes to me for advice, asking whether they should accept a given job, as a lawyer, I tell them that, once they do, they will have to stay in that job. So what do you think they decide? They decide not to take the job. Those who don't know their rights will take the job, try it out, and potentially be disqualified from receiving further benefits.

We all want people to have access to the best jobs possible. As part of their most recent EI reforms, the Conservatives claimed they wanted to help connect Canadians with available jobs. But, as things stand, the legislation does not allow for that, and it needs fixing.

Thank you.

[*English*]

The Chair: Thank you, Mr. Marotte.

The first one up is Mr. Deltell, please.

[*Translation*]

Mr. Gérard Deltell: Thank you, Mr. Chair.

Welcome to the committee, ladies and gentlemen.

Mr. Marotte, my question is for you.

It's a pleasure to meet you, and likewise, I'm sure. This is the first time we've met. I follow your activities, though, as many do.

You talked about those who know how the legislation works. I know exactly what you mean. I've talked with those who represent labour organizations and groups like yours. According to them, this new measure represented a pretty major change in attitude, one that required adapting to. But they also said that, on a practical level, few people had suffered as a result.

I'd like to hear your take on that.

Mr. Hans Marotte: With respect to the Conservatives' 2012 reforms, that is true. I gave a number of information sessions to employee unions active in the area of employment insurance. They said it was akin to being given a bazooka without the power to fire it. I don't have evidence of that. I am simply repeating what they told me. It's hearsay.

Although I had concerns about the impact, it is true that I didn't handle a great many cases stemming from the Conservative reform. Public servants had the legislative tool but rarely used it.

But what I'm going to tell you about now is much more serious. In 1993, the legislation was amended to disqualify an individual from receiving EI benefits if they had left their employment without just cause. Then, in 1995, the Federal Court of Appeal made a very smart ruling. The case was Jenkins, and I encourage you to read it. Under the act, an individual who had voluntarily left their employment—emphasis on the word “their”—was not entitled to receive benefits. The Jenkins decision established that claimants who were making an effort to find employment should not be deterred. That meant, then, that someone who was receiving benefits and trying to obtain employment was not penalized.

The Jenkins case gave rise to that very smart decision in 1995, but the Liberals amended the legislation the following year. In response to Jenkins, they changed the wording to refer to a person who had left “any” employment.

Trust me, for 20 or so years, I watched people struggle because of that sort of thing. Consider, for example, a machinist who comes to me and says he was making $20 an hour in a job with good working conditions but, after losing his job, has been unemployed for a month. He tells me he can get a job at Home Depot earning $12, $13, or $14 an hour. He wants to take the job on a short-term basis because his employer is going to recall him in three or four months' time and he doesn't want to be out of work. What I say to him is that, if he takes the job and has to quit later because he is having problems with the employer, he will no longer qualify to receive benefits. That means people are being deterred from taking jobs.

You are all creative thinkers. A myriad of options are available. For instance, if unemployed workers find a job while they are receiving benefits, they could be allowed to do the job on a trial basis for a certain period of time, without hindering their eligibility to receive benefits. It is akin to a probationary period on the employer's end, where the employer has the option to try someone out and let them go if it isn't working out in a month, say. Likewise, the employee could have that option.

The committee needs to give these issues serious consideration. Political stripes aside, we all want Canadians to have access to good jobs. But I don't think the current legislation allows for that.

● (1805)

Mr. Gérard Deltell: That's quite informative, Mr. Marotte. Let's stay on this topic.

No one, by the way, is immune to losing their job. It's happened to a few of my friends who were in the midst of wonderful careers. Provoked or not, problems can happen at work and people can find themselves out of a job at the age of 35, 40, or 45. Despite having a good university education, they can stay unemployed for 7 or 8 months. All of us here today know that no one is immune to that possibility and we all want people to be working.

What I have a problem with, though, is diminishing the value of low-paying jobs. You talked about a job at Home Depot that paid $12 an hour. I'm not saying you are diminishing the value of those types of jobs, on the contrary. That's not what you're doing. I have, however, had colleagues, in the past and in other places, who did look down on such jobs. It always made me angry, but that's another story. I won't get into the details of my personal life here.

What I want to make clear is that there is no shame in working a job that pays $12 an hour when you are trying to get back on your feet. There is absolutely no shame in getting up in the morning, going to work, putting in 35 or 40 hours a week, coming back home, looking your children in the eye, and being able to tell them that you are earning your keep.

You said the situation needed fixing, but what would you recommend in tangible terms?

Mr. Hans Marotte: The idea is precisely to encourage people.

Most of the people I see don't want to receive EI benefits; they want a job. The skilled worker, the machinist who makes $20 an hour, is probably going to be recalled in four months' time by their employer, who had to lay them off because there wasn't enough work. In the meantime, that person would prefer to work at Home Depot and do just about any job. But the problem arises when the person takes the job and it doesn't work out. Say the worker was promised 40 hours a week but only gets 20; say they were promised benefits and don't get them. In that case, the employer is not respecting the employment agreement. Unfortunately, the legislation does not authorize someone to quit the job because they are getting only 25 hours a week when the employer promised them 40. Someone isn't allowed to do that.

To rectify this, three options are worth considering. First of all, the wording in section 28 of the Employment Insurance Act could be revisited, specifically as it relates to a person who voluntarily leaves their employment. The provision refers to an individual who leaves “any employment”. The wording used in the 1993 legislation could be restored. Second, the idea of a trial employment period could be introduced into the legislation. For instance, the government could decide that, when an individual receiving EI benefits finds a job, they should have a month-long trial period and incorporate that into the act. After all, the idea is to encourage people to work, rather than collect benefits. With that in mind, the government could build into the legislation a reasonable period of time to try out the job. How long would be up to you.

The government needs to encourage people. It especially needs to ensure that those who, for 10, 15, 20, or 25 years, worked and paid their premiums, and who are receiving employment insurance benefits do not lose access to those benefits when they accept a job. Let's not forget we are talking about insurance. I have been paying car insurance premiums for 10 or 15 years and if I have an accident next week, the repairs will be covered.

We also talked about timeframes. Work is also needed on that front.

● (1810)

[*English*]

The Chair: I am sorry to cut you off. We are running long there.

It's over to Mr. Sangha, please.

Mr. Ramesh Sangha: Mr. Blakely, you said in your submission that you want some improvements to be made. We are all sitting here to see that some improvements are being done in employment insurance. You are really enthusiastic about that. In your press report you also said that “Canada's Building Trades Unions are pleased with the support demonstrated for the skilled trades in this Government's first tabled budget.”

What type of improvements can you suggest today that would be good for the system?

Mr. Robert Blakely: Reinstate something like the board of referees. Look at the various zones across the country. I think they have to be rethought. Look at principles such as, if someone has left a job, is there a reasonable cause for doing that? Not infrequently, we have people who have been living in Cape Breton and working in Fort McMurray who actually get a job at home. They quit the job in Fort McMurray, where they have been for a year, and they go to work on the job in Cape Breton. Things are going along really well until the third week, when there is no material, so they lay everybody off. This person files for EI, after quitting a job and losing a year's worth of whatever. You are on your own. That does not make sense.

On the question of access to EI, I am not prepared to say, give every slug who doesn't want to work some money because the government is a nice way to get money. It should be based on your actions. If you have done something that puts you out of a job without a reasonable explanation, then we don't need that. The hiring hall agreements need to be reinstated across the country. They make sense for our industry. Parental and sick benefits need a good look. The real issue around parental and sick benefits, special benefits, and training benefits needs a fix. Where does part 2 fit? I'll write you something on all of those things, which will be a lot more elaborate than my just thinking off the top of my head and boring my umbrella to the point it fell on the floor. I'll send you something.

Mr. Ramesh Sangha: I don't think we need your paper because you are trying to explain everything here. What were your concerns regarding the regional system that does not work very well?

Mr. Robert Blakely: Go to New Brunswick and you'll see a province where there is a dividing line. South of the line it takes more than 610 hours to get 17 weeks worth of benefit, but if you're 100 yards north of the line, it's 300 hours for 52 weeks benefit. That doesn't seem right to me. Maybe it doesn't have to be homogeneous so that everybody gets the same benefit, but maybe there needs to be less deviation in regions and in areas.

● (1815)

Mr. Ramesh Sangha: I will share my time with my friend, Mr. Ruimy.

The Chair: Mr. Ruimy, you have two minutes.

Mr. Dan Ruimy: Why we're here today is precisely because of what's been going in in our country. We know that we have some challenges, especially when I hear things about long wait times and social security tribunals. In my riding, one of the most frustrating aspects is the back and forth you go through in trying to get in touch with somebody. The phone is ringing and nobody is answering the phone. I hate to say this, but from what we understand, 650 jobs were cut from Service Canada previously, and 10 out of 12 call centres were closed.

Does anybody care to comment on how that would impact our system and some of the things that you're talking about?

Mr. Robert Blakely: Reasonably literate people can try to manage through a system. The system has to be available to them in order to work. If you can't get through by email, by voicemail, by the telephone, or by letter, then the system doesn't work.

The Chair: Thank you. I'm going to cut you off there. We have to grab some time as we go along for some business at the end.

Ms. Ashton.

Ms. Niki Ashton (Churchill—Keewatinook Aski, NDP): Thank you to all of our witnesses for coming in today.

I do want to first outline that many of you expressed a concern about our timeline and being told at the last minute that you had to come here. As a member of this committee, I do want to apologize to you. That's not the way it should have been. You should have a reasonable amount of time to be able to prepare, especially on an issue as important as this that affects so many Canadians.

I do have a few questions.

[*Translation*]

Mr. Marotte, many workers in the regions find themselves in trouble when their benefits run out a few weeks before their seasonal jobs start up again. That period is what they call the black hole.

What do you think the government should do to fix the problem?

Mr. Hans Marotte: Basically, it's an eligibility issue.

Take, for example, someone who works in the Gaspé region or out east. I don't like referring to people as “seasonal workers” because there is no such thing. They are people who work in a seasonal industry. The worker who fishes for a living in the Gaspé region would like to fish all year long, but unfortunately, in Canada, the weather gets cold and the water eventually freezes. Come October, the fisher has no choice but to put their boat away for the winter. They would probably prefer to fish year-round, but that's not an option. That person has worked hard in May, June, July, August, and September and accumulated many hours of work, but that often isn't enough to carry them through until the following season opens. Hence the importance of improving the eligibility criteria.

As those who represent unemployed workers' groups in Quebec, such as Mouvement Action-Chômage de Montréal, as well as many others across the country, we believe a standard should be introduced that would allow everyone to work and live throughout the year. If, for instance, someone works 35 weeks, they should qualify for at least 15 or so weeks of employment insurance benefits to carry them through to the next season.

I must confess that I am not at all objective. I ran for the NDP, and that's why I am telling you about it. Mouvement Action-Chômage de Montréal proposes that there be a single eligibility standard, under which 350 hours of work would allow someone to qualify for at least 35 weeks of benefits. That way, people would have enough to make it through the year. Whether a person loses their job in Edmonton, Saskatoon, Montreal, or Halifax, they still have to pay their rent, their electric bill and all their other monthly expenses. We no longer think the regional EI system is the right approach. It's not something that should remain in the legislation.

Ms. Niki Ashton: Thank you very much.

[*English*]

I don't have too much time left.

As a committee we have to take your feedback and come up with recommendations. Obviously, a number of recommendations have been made outside of this committee, and I think it's important for us to hear about them. I'm wondering if I could get a quick comment on a few of these from Mr. Cohen, Ms. Guevara-Holguin, Ms. Ritchie, and Monsieur Marotte.

We've heard about the need to protect the EI fund, which did come up today. I'm wondering if, perhaps, you could speak to the importance of that.

We've heard about the need to move to a 360-hour minimum and what that would mean for many people across the country, including those who are increasingly in precarious work, including many women.

Also, perhaps you could speak about the importance of including excluded regions, such as parts of Alberta and southern Saskatchewan, which are currently excluded and which of course are suffering as a result of the downturn in the extractive sector.

Could you please share some quick thoughts on those three topics?

Perhaps we could start with you, Mr. Cohen and Ms. Guevara-Holguin.

● (1820)

Mr. Neil Cohen: In terms of protecting the fund, there is, with all due respect, that nasty matter of the $57 billion. We certainly want to ensure that nothing like that happens again. This was a fund that was paid into by workers and employers. The integrity of the fund needs to be maintained so that EI premiums are used for EI purposes. That's critically important. We have to ensure that remains in place.

Second, there should be consideration given to independent financing of the fund. There was an independent commission that no longer exists. There has to be some mechanism to ensure the integrity of the fund.

On the 300 hours, I know it's a position advanced by labour. Is that the magic number? I'm not sure, but I support the intent.

The intent is to create an equitable format. I think this speaks to the variable entrance requirement as well. There are far too many anomalies among the various regions in the country. I'm sure many of you have heard of situations, and we see them all the time, in which someone says, “I can qualify with 400 hours, and my neighbour across the street needs 600”. We have to develop a rational regional approach to this.

The intent of the variable entrance requirement is really to ensure some equity. Under the Employment Insurance Act, when they changed the format, workers basically required two to three times the number of hours to qualify for benefits. That was a problem, particularly for people in precarious work.

We had the lead case in the country. Kelly Lesiuk's case went to the Federal Court of Appeal. Women, who were disproportionately represented in part-time employment, failed to accumulate sufficient hours to qualify. There are some real issues around not only the hours but also the way we measure labour force attachment.

We certainly welcome and support the government proposals to eliminate the re-entrant or new entrant requirement. We think doing that would go a long way. In terms of program review, we really need to look at the issues of accessibility in order to ensure they're fair, reasonable, and just throughout the country.

The Chair: Sorry, that's actually time. Do you have a brief comment?

Ms. Laurell Ritchie: I was just going to say that it might be worthwhile to think of targeting a higher benefit-to-unemployed rate. Currently it's at 40%. In my city, it's 21%. In Vancouver and Montreal, the largest cities in this country, the largest labour markets, it's below 30%. We used to have 70%. Maybe we need to figure out what needs to happen in the system to get those terribly low numbers back up for everybody, from coast to coast to coast.

The Chair: Thank you.

Monsieur Robillard, I'm going to cut into your time a little bit, I'm afraid. You have about three minutes.

Mr. Yves Robillard: My question goes to Mr. Blakely.

I'll give you time, because I'll ask in French.

Mr. Robert Blakely: I follow very slowly in French.

Mr. Yves Robillard: I'll go slowly.

[*Translation*]

Do the claimants you represent have all the information they need to make the best decision for them when they find themselves unemployed? What resources do you give them?

[*English*]

Mr. Robert Blakely: I think the short answer to that is no. We try to give them all the information we can, but people make their decisions based on some or poor information.

I would say that the average person who is in the EI system doesn't really know what the system is about. They learn by experience, and that experience is usually bitter. A lot of our older long-term members use EI as essentially a short-term loan. They're going to make over $65,000 in a year. They will get EI for a while. They'll pay it back through the tax system. That's fine. They understand that. A significant number of other people trying to make employment decisions—i.e., do I keep this job, do I try to look for another one, can I look for a better one, can I get one with more hours—do not have a very good understanding of the system.

That is problematic. If there's blame there, the blame goes to everybody in the system.

● (1825)

The Chair: One minute, please.

[*Translation*]

Mr. Yves Robillard: When the people you represent contact you about employment insurance, what do they say, generally speaking? Do they tell you they aren't happy with the system?

[*English*]

Mr. Robert Blakely: I would say that the most important thing with unemployment insurance, at least as it is presently structured, is that if you have a job, keep it—unless you think you will actually to get something else that's an absolute guarantee. Anyone who rolls the dice is in trouble, in my respectful view.

The Chair: Thank you very much, everybody. I really do appreciate all the effort from our panel on short notice. This committee definitely appreciates all of the work that goes into these committee meetings, and I want to thank you very much.

Mr. Robert Blakely: You know what? We actually have a lot of people who are counting on you to do something here. So fail not.

The Chair: I understand. Absolutely. Thank you.

Committee, we have one piece of committee business to take care of. As you see, a motion has been distributed.

The chair recognizes Mr. Ruimy.

Mr. Dan Ruimy: I will read the motion, as follows:

> That, in relation to Orders of Reference from the House respecting Bills
>
> (a) the Clerk of the Committee shall, upon the Committee receiving such an Order of Reference, write to each Member who is not a member of a caucus represented on the Committee to invite those Members to file with the Clerk of the Committee, in both official languages, any amendments to the Bill, which is the subject of the said Order, which they would suggest that the Committee consider;
>
> (b) suggested amendments filed, pursuant to paragraph (a), at least 48 hours prior to the start of clause-by-clause consideration of the Bill to which the amendments relate shall be deemed to be proposed during the said consideration, provided that the Committee may, by motion, vary this deadline in respect of a given Bill; and
>
> (c) during the clause-by-clause consideration of a Bill, the Chair shall allow a Member who filed suggested amendments, pursuant to paragraph (a), an opportunity to make brief representations in support of them.

● (1830)

The Chair: Thank you, Mr. Ruimy.

Is there any discussion?

Seeing none, all in favour of this motion?

(Motion agreed to)

The Chair: Thank you very much.

I believe we have put in our time for today. Thank you very much. I appreciate the extension and everyone helping with that.

I'd like to thank the translators for putting in the extra hour, all of the clerks and my staff up here, the analysts, and all of the folks behind me. Thank you very much.

The meeting is adjourned.