



STANDING COMMITTEE ON HUMAN SERVICES

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STANDING COMMITTEE ON HUMAN SERVICES

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[The committee met at 10:00.]

Bill No. 80 — *The Construction Industry Labour Relations Amendment Act, 2009*

The Chair: — Good morning, committee members and witnesses. This is day two of our committee hearings. Again this morning I'll reintroduce the members of the committee.

I am Greg Ottenbreit, Chair of the Human Services Committee. To my left is Mr. Cam Broten, the Deputy Chair of committee; and member of the committee, Judy Junor. With us as well is Andy Iwanchuk and Kevin Yates. And to my right is Mr. Serge LeClerc, Ms. Joceline Schriemer, Ms. Doreen Eagles, and Mr. Glen Hart.

Just a few opening remarks again today. This is the Human Services Committee. We carry out the committee work relative to Social Services, Health, Education, and Advanced Education, Employment and Labour. Today we are here for one of the processes the committee is asked to carry out, one method of public consultation where we, the committee, hear presentations from witnesses, ask questions of those witnesses, and make recommendations to the appropriate minister.

Before I continue, I have a few comments in regards to yesterday's proceedings. Democracy is a word being tossed around lightly yesterday. In a democracy, groups and organizations are represented by their elected or chosen reps which is what happened. It was an excellent example of democracy at work. It would be undemocratic to take away the rights of the majority of Saskatchewan people to view these proceedings to appease a small group orchestrated by the opposition. It is also important to note that this process was used by the opposition in regards to TILMA [Trade, Investment and Labour Mobility Agreement] and other important issues. I would encourage all committee members to refrain from engaging in political interference and focus on the consultation process.

Although this committee format is different from the Legislative Assembly, we still conduct ourselves in a respectful and professional manner. This is not a debate. It's presentation by witnesses, then question and answer by the committee. We'll allow a total of 30 minutes per presenter — a little bit of leniency there to facilitate proper questioning and answering — approximately 20 minutes for presentation and 10 minutes for question and answer. I will give the presenters approximately a five-minute warning before the 20-minute window is up.

We are here for consideration of Bill No. 80, *The Construction Industry Labour Relations Amendment Act, 2009*. This is through second reading. The Bill has been accepted in principle in the House, so I remind members questions are to be relevant and adhere to the contents of the Bill.

Any presenters that have brought along written submissions, please give them to the Clerk for distribution to members and they will be tabled by the committee. Members and general public can view written submissions from the witnesses at legassembly.sk.ca/committees/ as they become public record when they are tabled. As well individuals can view their

proceedings live streaming on the legislature website.

The seating is limited to 25; however by late morning and all afternoon yesterday there were a lot of seats available. I would encourage public and media to attend as seating is available. And this is a public and open consultation process. Mr. Broten, you had a comment?

Mr. Broten: — Thank you, Mr. Chair. Given your opening remarks, there's a couple things I would like to add in order to state clearly for the record. In line and in keeping with some of the comments made yesterday, obviously here in the legislature we communicate with the people of Saskatchewan through *Hansard*, through the web feed, through a television feed, and also through people coming to the legislature to visit. On any given day, one does not know how many people will come to an event for what is being held here in the Chamber.

I think the approach that the opposition took — to be on record — was to look for an approach that, one, allowed the committee to operate yesterday as we were scheduled to do, as well as to ensure that the people who came to the legislature had an opportunity to view the proceedings, as well to ensure that the individuals at home and across Saskatchewan, across the country would be able to follow if they so choose.

If you look at the one motion that included moving to the Chamber, where in fact there would still be audio feed and there would be ... And we looked at other alternatives about bumping it one day or even allowing more people into this room. I think we were looking for compromises that would still ensure that the mandate of the committee was met and ensure that the people who came to the legislature, that they could attend.

I think as Chair to describe individuals who came as a minority group — when in fact Bill 80, Bill 80 affects this group directly right to the core of their activities — to describe them as a fringe group or to describe them as organized by the opposition, this is a building trades council that has operated for many years in the province, is very capable of organizing its own people, and/or having their people act and want to come to the legislature. And that's what occurred.

So I simply wanted to make those comments because I felt that your initial opening remarks about what happened yesterday was not a completely accurate description of what in fact occurred yesterday. Thank you.

The Chair: — Thank you for your comments. Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. And I'm going to take that one step further.

Mr. Chair, your characterization of what occurred yesterday was an abuse of your powers of Chair to state what other people's intentions were, to attribute motive. And that's not fair; that's not balanced. And as your role as Chair, you're supposed to oversee this process in a balanced and fair way. Your characterization was clearly partisan. Your characterization was to portray a point of view that is just that, a point of view, and not at all what the Chair of this committee

should be doing in his introductory remarks to the public of Saskatchewan and to the people.

And while we're on that, Mr. Speaker, previous to us going on the record, the member from Saskatoon Northwest was clearly talking about how he'd like to put his elbow into somebody's face as a result of comments yesterday. Maybe he'd like to put those comments on the public record if he thinks he can talk that way about other individuals who are members of this Assembly or other citizens of this province. He should put that on the public record if that's how he wants to talk and that's how he views how people should be treated — that he'd use violence to deal with individuals he doesn't like. Maybe he should put that on the public record.

The Chair: — Thank you, Mr. Yates. I appreciate your comments. My intent was not to be partisan in any such way with my opening comments. My comments were purely my own observations from yesterday — my observations from some of the comments made in this room and comments made in the rotunda by the Leader of the Opposition, and how a lot of those comments very closely coincided, it seemed to myself. And my main interest in this proceeding is we have fair and equal, fair and equal questioning of the people presenting, and to have their opportunity to present unhindered and to have their proper public consultation.

So with that, I will entertain one more speaker from this side and then we'll continue. Ms. Eagles.

Ms. Eagles: — Thank you, Mr. Chair. Mr. Chair, I just want to state that yesterday the opposition said that citizens of this province do have the right to view the proceedings whether in here or, you know, on the web or however. But I would like to state that the seats in this room yesterday, the most people that were ever in here were eight, and they were usually presenters waiting to present. And also there was five media seats that we placed in here at someone's request. I'm not sure whose that was, but those seats remained empty throughout the day as well. So I just want to state that there was in fact room for seating in this area and that was not used.

The Chair: — Thank you for your comments, Ms. Eagles. With that, I think all sides have had their say with yesterday's proceedings and we'll move on.

I'd like to welcome this morning's presenters. The first presenter we have this morning is PCL Construction Management Inc. I've asked them for the purposes of Hansard and for the knowledge of the committee to introduce themselves. And I'll remind them of the approximate 30-minute window for their presentation. And I welcome them this morning. Thank you.

Presenter: PCL Construction Management Inc.

Mr. Hildebrand: — Good morning, hon. members of the Human Services Committee, ladies and gentlemen. And thank you for the opportunity to express our perspective on the merits of Bill 80. My name is Kris Hildebrand. I am the Saskatchewan district manager for PCL Construction Management Inc. I am joined here today with Eslin Eling to my right, our director of employment standards for PCL, and Garth Tomlinson, our

special projects manager right here in Regina.

Firstly we wish to applaud the government's introduction of Bill 80 and the amendments of *The Construction Industry Labour Relations Act*. Although the Bill does not address everything we hoped it might, the amendments take a very important first step in addressing some of the aspects of the construction industry's labour legislation that has and could further negatively affect the industry and province. For reasons that I will outline over the next few moments, these changes are crucial to Saskatchewan's construction and economic well-being and are fundamental in allowing our industry to further develop and support and sustain the province's impending growth.

By way of background, I would first like to briefly describe my organization to place my comments into perspective. The PCL family of companies has a very close and long-standing relationship to this province. PCL was founded right here in Saskatchewan — in Stoughton, Saskatchewan — 103 years ago. Throughout our history we've had the good fortune to build a few of Saskatchewan landmarks. These include several of the grain elevators you see across the rolling prairie. They include Regina city hall, the SGI [Saskatchewan Government Insurance] tower, the McCallum Hill Centre towers, the University of Saskatchewan's College of Agriculture, Moose Jaw's Providence Place, and the Saskatchewan Indian Federated College, just to name a few.

PCL Construction Management Inc. continues to operate in the province today and provides commercial, institutional, light civil, and light industrial construction services. Other PCL companies service the oil and gas, mining, and heavy industrial sector. We currently employ, right here in Saskatchewan, approximately 100 staff personnel, and our subcontractors employ in excess of 1,000 tradesmen on an annual basis.

These employees work and live right here in Saskatchewan. They pay their taxes here. They raise their children here. In summary, on a personal and corporate level, the PCL companies and their employees have a heavily vested interest in the health of the province as well as the construction industry. It is primarily for that reason that we appear before you here today.

However I hope that my comments can also bring a broad perspective to this committee's consideration of Bill 80. From a small Saskatchewan contractor, PCL has grown into Canada's largest contractor. We work in every jurisdiction of Canada and this affords our company the opportunity of observing how differing labour environments yield varying effectiveness in our different marketplaces. We have been active in labour negotiations throughout Canada and have a very good understanding of these dynamics. Accordingly, where appropriate, I will endeavour to provide these insights throughout my presentation.

With that background I will now turn to some of the comments regarding certain aspects of the current legislation and the impact that they've had on our province in the construction industry.

First, the current labour legislation in Saskatchewan for the

construction industry is based upon the labour model that divides the construction labour force along craft jurisdictional boundaries. This model heavily favours the building trades and excludes alternate labour models such as wall-to-wall labour representation — similar to what we were hearing most of the day yesterday.

The impact of this for us as an industry, despite the recent indications of an economic downturn across Canada, the ongoing interest in Saskatchewan natural resources suggest that Saskatchewan is on the verge or the continuation of a major economic boom. Even if it may be deferred, we still believe that it's very likely to happen. The severe labour shortages experienced recently in British Columbia and Alberta during their economic booms suggests that, when Saskatchewan's boom occurs, the province will need to maximize its use of the available labour force to meet the demands of the construction industry. The economic booms in Alberta and British Columbia have shown that to meet the demand for construction services, our owners will need to turn to all available contractors to source their construction needs.

Unfortunately, the current Saskatchewan labour regime undermines the efficient use of the available resources in the following manner. It discourages entry into the workforce by employees who prefer not to associate themselves with the traditional building trade. It undermines efforts to maximize workplace productivities. This occurs because additional manpower is often required for the purpose of preserving craft jurisdictional boundaries and, in circumstances where manpower resources could be more effectively used, by allowing employees to adapt their roles to suit their workplace needs.

It inhibits employees from cross-crafting and developing apprenticeship or journeyman skills in other craft disciplines. It discourages contractors from other provinces that use and wish to construct using wall-to-wall labour arrangements and it prevents them from exploring opportunities right here in Saskatchewan. These contractors may choose to restrict their operations to jurisdictions and provinces that have more flexible labour regimes.

Perhaps most importantly, the current legislation restricts employee choice. The right to freedom of association is enshrined in the Canadian Charter of Rights and Freedoms. Because the labour legislation in Saskatchewan for the construction industry prohibits employees from choosing their union representation, the Saskatchewan construction and labour legislation may be in violation of the Canadian Charter of Rights and Freedoms.

[10:15]

Secondly, the current labour legislation also requires contractors to bargain through a specified employers' association without any opportunity to associate themselves and bargain collectively through alternative employers' associations. The impact of this is it restricts and prevents employers from pursuing other options if they are in the view that the employers' association is not bargaining effectively on their behalf. In essence, the legislation tends to discriminate against those employees and employers who do not wish to

associate themselves with traditional building trades.

Third and finally, the labour legislation in Saskatchewan for construction industry does not expressly recognize the concept of abandonment of collective bargaining rights. The impact of this has been more significant in recent years. The building trade unions have recently brought several applications before the Saskatchewan labour board in an attempt to resurrect historical bargaining rights that have not been exercised for in years and in some cases decades. These hearings, which may proceed in circumstances where the workforce has made no indication they are seeking union representation, are very lengthy and costly to the employers that are required to respond to these.

So the introduction of Bill 80 has gone a long way to address these concerns in our industry by providing a fair and balanced approach to labour in Saskatchewan, in particular the construction industry. In particular, in accordance with the Canadian Charter of Rights and Freedoms, employees will be allowed to choose whether they wish to belong to a traditional union such as building trades or a non-traditional union such as a wall-to-wall union. Employers in the construction industry will be able to freely choose the employer organization they wish to represent them.

The principle of abandonment will also be recognized in our industry. If a union has not represented or enforced a collective agreement with an employer for a minimum of three years, the union's rights as the bargaining agent for the employees that it has not represented may be terminated through application to the labour board.

These changes will benefit the province as a whole and many different groups within the province.

Although I expect my list will not be extensive, I would like to summarize some of the benefits to the province and to the four primary groups that are most affected by Bill 80; being the employees, the unions, our owners, and the contractors themselves. I'll begin with some of the benefits that the province will be benefiting from primarily.

If Bill 80 is passed into legislation, Saskatchewan will be viewed as a province that respects constitutional rights of employees. Saskatchewan will obtain skilled employees — that do not wish to associate themselves with building trades — that currently reside in the province, will be encouraged to remain in Saskatchewan. Similarly, employees that do not wish to associate themselves with building trades and have left the province may be encouraged to return to Saskatchewan.

This will help mitigate effects of anticipated labour shortages in the future. Local and out-of-province specialized contractors that wish to construct using wall-to-wall labour arrangements will no longer be discouraged from exploring opportunities here in Saskatchewan as well. This will increase competition within our industry and will facilitate a stronger and more sustainable economy.

Because the concept of abandonment will deter unions from attempting to resurrect unexercised historical bargaining relationships, the resources of the labour boards and the courts

will not be tied up for prolonged periods of time litigating issues that happened decades ago.

The construction industry will be in a stronger, healthier position and assisting in the economic growth of our province. Ultimately these benefits will provide a competitive economic environment that will facilitate private sector development and a healthy economy.

Some of the benefits to the employees directly and primarily: their constitutional right to freedom of association will now be recognized. Discrimination against non-building trade members will be eliminated or significantly reduced. Employees working for alternate unions may be able to enhance their skills through cross-crafting. This will, of course, also benefit the province as a whole because it will facilitate the development of a highly skilled and multidisciplinary workforce within our province.

Benefits to the unions: traditional building trade unions will remain as they are and will continue to represent employees where the employees choose the building trade union through the democratic process of union certification. Non-traditional unions will now be recognized as legitimate trade unions and will not be discriminated against.

Some of the benefits that we see that will come to our owners — and for us, this is a significant point, and one of the focuses of our view of Bill 80: our owners will have . . . This Bill will impact them the most. They are the ones in essence, at the end of the day, who actually will be determining the labour delivery systems that we follow. We need to ensure that we're creating an environment that's friendly for them to want to invest in our province, and they are at the end of the day the ones that help drive our industry. They will directly reap the benefit of receiving competitive bids from traditional, non-traditional, and non-unionized contractors, thereby achieving the most cost-effective prices for their buildings and their projects.

As I have previously noted, this approach has proved necessary in the Alberta oil sands to meet the construction demand of that province's natural-resource-driven economic boom. In our company's view and in the view of many others, Alberta would have been unable to fuel its economy without a flexible labour structure similar to now that's being contemplated in Bill 80.

A flexible labour structure has also been beneficial in British Columbia where, like Saskatchewan, the construction industry has historically relied heavily on building trades workforce. Today in British Columbia a significant portion of that province's construction industry operates through wall-to-wall union arrangements, and this also includes some of the current building trade unions operating as a wall-to-wall faction in British Columbia right now. And that's an important note. In our company's view, this flexibility has enabled the province to successfully manoeuvre through a construction boom — and this is in British Columbia — that included the construction of many of the Olympic projects, large infrastructure and power projects, as well as a major residential construction boom.

Owners will also benefit from the flexibility of this workforce, thereby maximizing the use of apprentice trainees and typically reducing the overall construction costs.

Benefits to the contractors. The threat of prolonged, expensive litigation will be removed by the recognition of the principle of abandonment. Contractors affiliated with non-traditional unions will be welcomed into Saskatchewan and permitted to operate in our industry. Wall-to-wall unions will enable the contractor to perform cross-crafting of crews which will assist in alleviating labour shortages. The flexibility to adapt employee roles to suit workplace needs will eliminate wasted manpower requirements associated solely with the preservation of craft jurisdictional boundaries and will improve the workplace productivity. Contractors will have the opportunity to choose the employers' organization they wish to belong to.

As I previously noted, I expect that the benefits I've outlined is not an exhaustive list. However on the basis of those benefits that I have described, our company is of the strong view that Bill 80 will be a tremendous benefit to the province of Saskatchewan and its citizens.

Before concluding my submission, I would like to address some of the comments made in the legislature during debates of Bill 80 and some of the misleading statements that are being presented in our media. They've included comments questioning the need for the change proposed through Bill 80 and concerns regarding safety and quality arising from the use of open shop or non-union contractors.

Turning first to the comments that question the need for these changes, I think that the sentiment of those voices these concern is reflected by those who have stated, the construction industry is not broke, so why change it? With all respect to those expressing this view, statements like that misconstrue the purpose of the legislation. While the construction industry is obviously not broken, you know, looking back at the volumes and records that our industry has enjoyed over the last few years, there still remains a significant room for improvement.

I have already outlined several ways in which Bill 80 will facilitate a healthy construction industry and economic growth. Through Bill 80, the government is attempting to make our industry better. Through Bill 80, the government is simply ensuring that our labour legislation does not become the economic stumbling block to sustainable growth in Saskatchewan by enabling the province and its citizens to maximize its or their use of available labour resources. In essence, through Bill 80 the government is exercising considerable foresight to facilitate economic prosperity for our province. That, simply put, is a reason for changing something that isn't necessarily broken.

Turning next to the concerns regarding safety, I am compelled to begin with a clear and strong message to this committee that the suggestion that an open shop or non-union construction sites are unsafe is nothing short of straight untrue. Current open shop contractors represent approximately 80 per cent of all construction workers currently employed in Saskatchewan. They are the fathers, mothers, brothers, and sisters of real people who live and raise their children in this province, and deeply care about what they do and how they do it. They are professionals who take immense pride in building their communities and our future. However, above everything else, they are individuals who endeavour to create a safe working environment for themselves and co-workers to ensure they go

home safely each and every day to their families.

By way of example, our own safety record, PCL's safety record, demonstrates this. As an open shop contractor, PCL is proud to say it has one of the best safety records in the construction industry in Saskatchewan, as well as across Canada. PCL has been recognized by the Saskatchewan Construction Safety Association the last two years in a row with the best Corporate Leadership in Safety Award. PCL has recently also surpassed 1 million man-hours worked without a lost-time incident on our job sites.

However, we are also pleased to note that many of our open shop competitors have similar safety records. To be blunt, there is no basis to substantiate the suggestion that open shop or non-union contractors have substandard safety standards or records. Similarly, there is simply no basis to suggest that the changes introduced by Bill 80 will have any impact on safety in our industry.

Turning finally to the concerns regarding quality, these concerns have largely focused on suggestions that employees of wall-to-wall or non-union contractors do not provide adequate training to their craft employees. All employers, whether they're non-union, building trade union, wall-to-wall union, have an obligation to ensure work completed on any construction site is performed by a competent worker and, if required, a certified worker.

This has not been contemplated in these amendments, and statements insinuating that open shop or contractors using alternate unions create that scenario is misleading. As an employer, PCL provides more than 250 training courses in safety in construction activities, and we take our responsibility seriously and ensure all proper certification is attained by workers on all of our projects each and every day.

In closing we wish again to commend the government for its foresight in addressing aspects of the construction industry labour legislation that has and could further negatively affect the industry in the province. We thank you for the opportunity to express our perspective, and we'll be pleased to respond to any questions you may have.

The Chair: — Thank you for that report, Mr. Hildebrand. We'll open up the floor for questions. Mr. LeClerc.

Mr. LeClerc: — You've been in this province since 103 years. You currently have 1,000 people working in this province. Your list of construction and projects is impressive indeed, and landmarks in our province. What is the effect of the changes in the labour legislation upon your industry and your company in 1992? What were the changes? Because my understanding from testimony yesterday is that this piece of legislation that was put in in 1992 by the previous government brought in a lack of democracy in selecting 17 particular trade unions as having full bargaining rights and excluding other unions. And this has been noted around, this 1992, which is long before my presence in this government. So could you give me some reflection on that.

Mr. Eling: — Thank you. I'll answer that question. I think a little bit of history is important here so we have an idea of what took place before 1992 and then what happened in 1992 and

subsequent.

The CI . . . well the construction industry industrial relations Act was abolished between 1978 and 1983. It wasn't there. A lot of construction companies were allowed to do whatever they wanted, and many, many employers, you know, created different scenarios.

[10:30]

In 1992 the government of the day introduced legislation that put the Act back in place but grandfathered a few of those companies. The unions couldn't take any action against some of those companies that had set up whatever alternate . . . and I heard you mention the word grandfathering yesterday. You asked somebody about that. That's where those provisions were in in 1992.

But at the same time in that amendment in 1992, they made the building trades the exclusive bargaining organization. They appointed the CLR [CLR Construction Labour Relations Association of Saskatchewan Inc.] as the employers' representative, although there were about 50 employers that voted against it and only about seven that really supported that organization.

It was okay till then. But in 2000, the government introduced further legislation that took the grandfathering away and basically made it wide open so the unions could file any applications against any company. Whereas the grandfathering protected some employers, in 2000 it was taken away. So it was fair game for all employers.

And that's the one that had the most important effect on us, because we are one of the companies — and I know we've talked about the Saunders case — we were one of the companies that the unions have attacked. And we have matters pending before the Labour Relations Board as such.

The other thing that happened in 2002, which was very important, is the employer rights. There was a whole section of employer rights, where you had the right to choose your employer association. Those were taken away. That whole section was deleted from the Act. So if you read the current legislation, the current CLR, who were appointed over the objections of all of us in the industry, are now in there for life basically.

If the Act is not changed, that's what the Act says. These people who were appointed over the objection of our companies are in there for life and the bargaining rights for all of their building trades. And then we are now faced with, you know, applications that go back 30-plus years. So those are the major things that affected us.

Mr. LeClerc: — Thank you. So is there any reason why the construction sector should be different than the other sectors with respect to labour relations and bargaining structures provided under *The Trade Union Act*? Is there anything specific that would give cause for this, comparably speaking, to the other sectors?

Mr. Eling: — Most jurisdictions do have special legislation for

construction industry if you look at across Canada, but nobody else has restrictive legislation like Saskatchewan has.

Mr. LeClerc: — One of the things that was presented to us yesterday as a rationale not to change the labour Act was that there was 17 years of, I guess, agreement in non-strikes.

And one of the things that stood out to me was I thought it was almost a form of blackmail because the rest of the labour or the rest of the unions couldn't cross, and one union could hold up a whole project. And that was an awful big hammer to use in the field against any company. How do you operate in the other provinces that would take away a hammer or at least be a little bit more fair and have a little bit more democracy, I think, in play — that if there was a complaint against your company by a union that it was less, I think, powerful for one union to dictate for 16 other trades in that place and dictate whether other people could earn a living or cross the picket lines?

One of the things that was answered to me to that question was that people don't cross the picket line out of respect. Well with all due respect, the people that have talked to me about it want to cross the picket line but they're scared of intimidation and sometimes being called scabs and other things. How has your labour relations worked in the other provinces that you have worked that don't have this kind of siloed trades Act that can have one trade shut down all of the others?

Mr. Hildebrand: — In some of our other jurisdictions, we operate as building trades contractor so we have experienced what you're talking about. And I believe — as was expressed yesterday — when it comes down to it, the obligations of all the other associations and unions, they're obligated to ask their members to cross the line.

What we've experienced first-hand is exactly what you're referring to, where the brothers of different unions are sympathetic to the unions that are out on strike and they will respect that picket line or that strike for a certain time period. And typically what happens is we're required to intervene and request the unions to urge their members to cross the line. And they invariably, with mixed results, will do so. But it is a difficult thing to deal with, and it's important to ensure that everybody's rights are respected.

So in the collective bargaining agreement, it is something that really gets employers and employees back to the line. But on a day-to-day basis during strife, it is something that's difficult to overcome, and it is disruptive to our sites.

Mr. LeClerc: — So very quickly, would you say that you're an anti-union organization?

One of the comments I heard yesterday was that the people that were presenting in favour of Bill 80 were somehow anti-union. You operate across Canada. You negotiate with unions across Canada. You operate within our own province. You have been doing that for 103 years. Anti-union?

Mr. Hildebrand: — No. We are not anti-union.

Mr. LeClerc: — So your support of Bill 80 has nothing to do with the fact that you're anti-union?

Mr. Hildebrand: — Correct.

Mr. LeClerc: — One of the factors that has been talked about — and you've covered them under safety and apprenticeship, but — lower wages. There's been an allegation that somehow this Bill 80 and wall-to-wall and other unions would bring in lower wages for our current workers in this province. True or not true?

Mr. Hildebrand: — Not true.

Mr. LeClerc: — And in terms of the abandonment issue, would you say that a three-year period, moratorium to give a union time for action and in the workplace is fair, too long, too short, unfair?

Mr. Eling: — It is sort of consistent with the way, with Alberta's legislation because Alberta has exactly the same — three and out is what it's called. They looked at introducing it in Ontario and decided against doing it. Most other boards, they have it in their policies and it's usually, it's the three-to-four-year mark. If you've got bargaining rights, you haven't exercised it and an employer brings an application before the board, the board is sort of willing to consider that three years as enough time.

Mr. LeClerc: — One of the comments, or one of the questions asked is about the backdating of this or grandfathering it in. Is that fair or unfair?

Mr. Eling: — Let me answer that. And I think it's . . . Under normal circumstances — and again, this question was asked a few times yesterday because we sat on the proceedings, and when we didn't have room, we were in our offices listening to what was happening — and normally there is, you know, abandonment. You are asking, is it retroactive? Usually it isn't, because Saskatchewan — your legislation — is very peculiar or different from everywhere else.

In 2000 when the grandfathering was removed, that gave the unions the ability to go back retroactively to like 30 years and hammer all of the employers — and I've got a list of a few of those which are public records so I don't mind mentioning it: Hipperson, Graham, Alliance, PCL, Saunders, just to name a few, and there's a big list that's still pending. They went back retroactively to file applications against us. So naturally if you are going to introduce abandonment legislation now for Saskatchewan which allowed that, you would have to make it equal to go retroactively to clean that up. And that's my inclination to that.

Mr. LeClerc: — That's in reaction to the legislation that was changed in 2000 that opened the door to that.

Mr. Eling: — That is correct.

Mr. LeClerc: — Thank you very much for your presentation and your clarity of answers. They've helped me a lot.

The Chair: — Thank you, Mr. LeClerc. Mr. Iwanchuk.

Mr. Iwanchuk: — Okay, thank you very much. Thank you very much for your presentation. Now my understanding is

you've laid out that you have a number of workers you have here. Are you presently working in Saskatchewan?

Mr. Hildebrand: — Yes, we are.

Mr. Iwanchuk: — Okay. A point you made in regarding to choosing your employer organization, now is that in the Act? My understanding there, that you would still be a part of, until you got a different union — if you had the building trades, you would still have the same employer organization — and you said you could freely choose. I wonder what you meant when you said you could freely choose your employer organization that you belong to.

Mr. Eling: — Maybe I can answer that. Prior to the current CLR being appointed by the government of the day, the employers in the construction industry, we had another employers organization called the SCLRC, Construction Labour Relations Council. And at the head of that was a gentleman by the name of Mr. Jim Chase. That might ring a bell. And that was the association that all of us had supported. That would be a chosen. The government of the day cancelled that association's standing and appointed the CLRA [CLR Construction Labour Relations Association of Saskatchewan Inc.] as the employers representative.

And if you look at the legislation in every province — here it's called accreditation and in Alberta it's called registration — most of the other provinces it's the same type of legislation. What you do is the employers who are bound by building trade agreements, in this particular case, have the right to choose the employer association that they want to represent them, and they can decide to pick whoever they want. And if they don't like that association, they can vote to have them out; they can go without any association. But those are the rights that they have. Today, Saskatchewan's legislation, you don't have those rights period. They've been taken out.

Mr. Iwanchuk: — My question was in Bill 80 since you're supporting that . . .

Mr. Eling: — Yes.

Mr. Iwanchuk: — How are you going to choose your employer organization when if you still are under the building trades, you will still stay under the existing . . .

Mr. Eling: — Not necessarily. You could have the choice to, if you're not happy with the current organization, you could remove them and have somebody else come in. The fact of the matter is, you know, they may be in there for another 20 years. The fact of the matter is our freedom to choose, to decide whether we want them to stay or not; it should be still there. We should not lose that right, and that's what's the issue here.

Mr. Iwanchuk: — Would this lead to companies choosing wall-to-wall over existing . . . And I guess I ask that question because there's a lot of talk here about freedom of choice employees. And I'm wondering, if we're talking about freedom of choice and democracy as we talk here, to what extent will companies . . . It seems to me that companies coming here and saying they want wall-to-wall is not allowing the employees to choose. Somehow they are saying because in *The Trade Union*

Act or that there's not to be any employer interference, and here we have companies continually coming — and I'm listening to this and trying to understand how this works — that they are saying, we prefer wall-to-wall over the existing.

That to me, when people talk about there are things in *The Trade Union Act* and in the other Acts before the Labour Relations Board that might be saying that, in fact this is interference. And I'm wondering how you're squaring this that you're saying with this sort of freedom of choice and a preference. And you can have your preference; I mean it's an opinion here, and I respect that.

But I want you to answer to me how that squares with non-interference by companies in employees' choice of unions, since we are here spending a lot of time talking about employees, and here we have companies coming saying we favour wall-to-wall because somehow that extends that. And yet we hear, and of course in this province have a number of people that are coming before us and saying no, that is not what we want.

So as a committee, I want to know that you're saying your preference is that. I want to know you're not going to interfere in the employees' free choice of what they want. How are you going to do that? Or am I seeing here a push for wall-to-wall at all costs? If you could explain that to me.

[10:45]

Mr. Eling: — I will. And this is the procedure that's used across Canada in certifying any trade union. And don't forget, the alternate unions are legitimate trade unions. Before a labour board certifies a union they have to check and make sure that that union is legitimate. And there are some tests that the labour boards use.

So once they determine that — well let's use CLAC [Christian Labour Association of Canada] for an example because I know we're all beating around the bush. CLAC is the big one that's going to come in. The boards will look at their constitution and bylaws, make sure that they have all the necessary elements, and they declare them as an appropriate bargaining agent to represent employees. Okay.

So a company, ABC company, who has a relationship who would prefer not to deal with the building trades, and they come in, their employees are the ones who decide whether or not they want CLAC to certify them. And the process is, those employees have to fill in an application for certification. They have to sign cards saying we hereby join CLAC association. We pay a \$2 fee or whatever it is. And the same process goes for building trades.

The labour board investigates that application, sends an investigating officer out. He'll check the records of the employer to make sure that on the date of application, yes, there were 20 guys; yes, the list that CLAC supplied were 20 guys. They have a secret ballot vote, so if there was any pressure put by the employer on certain employees to vote in a particular direction, they have a secret ballot that nobody knows who, and the board counts those votes. And if the votes are in favour of that union, they get certified. If they don't have majority

support, the application is rejected.

So it's really difficult for an employer to manipulate it. And I know that one of the presenters here indicated something that CLAC is an employer-friendly union. Yes they are, but they're not a management-controlled union.

Mr. Iwanchuk: — You see, this is, this is . . . We had Mr. Vanderlaan here from the progressive employers and you're talking about their employees. He quite clearly said to us that there are not 26,000 employees standing on the borders of Saskatchewan, and as soon as this is passed, we are going to see this.

And you said, let's not beat around the bush. I don't want to beat around the bush either. This is about labour mobility. This is about having people work here because there's shortages. And we're all talking about the economics.

My question was simply put. Alberta's on a downswing with their labour legislation. Maybe we should change that. And people said, oh no; it's not the labour legislation. And you come here and you say to us today, well right across Canada it's different and that.

And I see our economic boom. And if things were to change, as we see layoffs today in the paper I read, in the potash and that, and there is no economic boom, or whatever happens, commodities. We've been here living for a long time, but the express purpose of this is to put the blame on the labour legislation. And then the fallout is that we talk about our employees. Well, the Progressive Contractors are very clear that they have a Saskatchewan-first hiring policy and they would come here and try search those.

So we're all in competition. Let's not also beat around the bush. We're all here in competition about . . . And there's a pool of people in Canada, and whether we deal with immigration policies or that, that's what we're talking about.

But we pin, pin sort of, the tail on the donkey on this one and say, it is our labour legislation that is doing this. This is going to open it up. And somehow says we heard this all before elections and all the rest of it.

And I don't mean to lecture you, sir, but when you come here and say, talk about our employees, and you talk about here and come and say wall-to-wall, and you come here and say about choosing unions, that is very close, I mean, very close to the line to say where your preference is. And how much of a further step is it before you get the interference that you talked about — quite correctly and I agree with you — before the Labour Relations Board.

I just want to take to another point. On apprenticeship, I would say to you that the apprenticeship program in British Columbia has fallen apart. And explain to me how, if it does take four years or how many ever years it does take, how are you going to be jumping these people around in the next four years — let's not take a long term, in the next four years — and having cross-crafting happening on job work sites, and not deteriorate the apprenticeship program, and not have those people spend the time that's necessary on those, and hours that is necessary?

Explain that to me. That's just a four . . . Let's just talk about that, that we come in with these ideas of how this is going to work.

Theoretically, I have to tell you when I listen to that, it makes a lot of sense to me too, and I'm sure to a lot of people. But practically, on the job worksites and the BC thing too please?

Mr. Hildebrand: — I'm sure we could spend a lot of hours debating on how something might happen sometime down the road.

I guess from our perspective, we're asking the question conversely. If we've got an economic environment where we have very large employers looking to construct multi-billion dollar investment projects in our province, it's been our direct experience what's happened in Alberta and BC are owners will now go to alternate unions. If they don't have that opportunity to do that here, what's to say that they'll stop their investment in our province? This is directly related to the legislation right now. So if the owners believe they can't get the labour force to build what they want to build, what are they going to do?

So that is our perspective of, if we don't create an environment that is friendly for our big employers to come in and access all of the labour resources that they can, why wouldn't we enact something like that? Why aren't we looking to change that restrictive legislation?

The Chair: — Just excuse me, Mr. Iwanchuk. We've gone way over time. We've given both sides ample time or equal time in asking questions. Mr. Yates, I'll allow you one question before we wrap up.

Mr. Yates: — Thank you very much, Mr. Chair. What I'm interested in is if you have and could provide us with additional material around the impact of the abandonment issue over time. You talked about the various cases. That would be beneficial to look at and have some more detail if you could provide it.

Mr. Eling: — What I'd suggest to you is, the applications are before the board. They're on public record. You have some research assistants; they can get it for you in two seconds.

Mr. Yates: — Okay. Thank you very much.

The Chair: — Thank you, Mr. Yates. I would like to thank the PCL Construction Management corporation for coming by and presenting here today, and thank you for answering questions.

Mr. Hildebrand: — Thank you.

The Chair: — And we will not go to recess. We will go directly to our next witness, Mr. Bert Ottenson. So we'll just facilitate that change quickly and move on with the next presentation.

Presenter: Mr. Bert Ottenson

The Chair: — Okay. Thank you, committee, and thank you, Mr. Bert Ottenson, for coming to talk to us today. As I said with the previous group, we'll allow you approximately 20 minutes for your presentation. We'll try and hold it to about 10 minutes

for question and answer, but we will have some levity to make sure we have all questions asked and answered. So thank you very much for coming.

Mr. Ottenson: — Thank you. I guess I'm on. I'd like to thank you for allowing me to speak to you regarding Bill 80, *The Construction Industry Labour Relations Amendment Act, 2009*. I will spend a little time introducing myself for those on the committee who are not familiar with me.

I have worked in the construction industry since 1966, first as an apprentice and then as a journeyman in the sheet metal trade. In 1981 I became a full-time representative with the Sheet Metal Workers Local 296. I became business manager of the local in 1988, and an international representative of the union from 1993 until March 2009, when I retired.

During my tenure as business manager, I was part of the tripartite board that drafted *The Construction Industry Labour Relations Act, 1992*. I believe myself to be fairly knowledgeable regarding the construction industry, and in that vein I wish to point out some possible unintended consequences to the construction sector due to the proposed changes introduced through Bill 80.

I will focus on three areas that I believe will prove to be contentious regarding this legislation. Those areas will be: bargaining and competitiveness; certification, voluntary recognition, abandonment; and number three, maintenance.

For the first issue, as you probably know by now that the current system of bargaining is set out fairly consistently in the present Act. A trade union sits down with the trade division that holds the bargaining rights for that particular unit and comes to a province-wide agreement. This was done to stabilize the construction industry. If there was a possibility of a strike or lockout, the parties were mandated to use conciliation, and if this did not work, all companies would be struck or all companies would have to participate in a lockout.

This system of bargaining seems to be working. Over the 17 years that this system has been in place, there has not been a strike or a lockout in the construction industry in Saskatchewan. As I understand it, Bill 80 proposes to have this system in place, but also run another system with all-employee and multi-trade unions which will not be bound by the construction Act. *The Trade Union Act* has no requirements for mandatory conciliation. There will be no benchmark agreement in the construction industry. In fact, it could turn out to be 40 or 50 or more different agreements within the unionized construction sector.

To say that this is required to increase the competitiveness in the construction industry is somewhat misleading. The government's own figures put the unionization rate in the province at 19 per cent. This means that 81 per cent of the industry is working without contracts or representation. These are the people that keep us competitive. The building trades sector remains competitive in order to keep their members working.

There is more to being competitive than dollars per hour. Productivity of the workforce and efficiency of the employers

are far greater factors than wages when it comes to competitiveness.

I would add at this point that no company or workers were ever excluded from bidding work or working in Saskatchewan. They could have come into the province to work, but may have chosen not to because of their concern about being organized by the building trades unions. When it came to project agreements that gave exclusivity to the building trades unions, that was done by the owners as a business decision, and not because of the construction Act.

The backgrounder put out by the government dated March 10, 2009 stated, under "Rebuilding Saskatchewan's infrastructure":

These amendments will enable work to be done more quickly by attracting additional construction companies and employees into the province and by encouraging more competitive bidding on projects.

In the construction industry, there are only so many companies capable of doing the work and only so many qualified tradespersons to do the work, and in most cases they will go where they can make the most profit and wages respectively. These amendments will not change that. The lack of competitive bids was not caused by the construction Act, but by a red-hot construction sector. This has slowed somewhat because of the drop in oil prices, but there are some indications that the boom in Alberta is not yet dead.

Nothing in Bill 80 will change the fact that you are competing in an overheated marketplace. Whether you are with the unions, alternate unions, or non-union, you are drawing your workers from the same labour pool. The only thing that will increase the pool is training or immigration, not amendments to the construction Act.

Most of the companies that the building trades deals with are small-business people with less than 20 employees. We are able to do the work we do because we are competitive in the marketplace. The non-union sector is alive and well in the province and they are our competition. These small-union business companies do not have the time or resources to have a dedicated human resource department, so being aligned with the CLR accomplishes that at a reasonable fee. Does this government want to take the risk of disruption on job sites and problems in the workplace by changing an Act that has been working for 17 years? I would hope not.

Number two: the second part of my presentation will speak to the certification issue of voluntary recognition and abandonment. Premier Wall, when speaking about the changes to *The Trade Union Act*, said that the automatic vote would bring workplace democracy to the province. How that fits into the proposed changes to Bill 8 is hard to fathom.

Under the present system if a trade union such as the Sheet Metal Workers applies for certification, the sheet metal workers who are working for that company would vote on whether to be a union or not. If the union was successful, that company would be union with the Sheet Metal Workers' Union. If in the future the company decided to hire plumbers or electricians, etc., they would be non-union unless the employees decided to organize

in their particular trade division.

[11:00]

As I understand the changes being proposed, a union could apply for an all-employee certification and if there were three employees in a particular trade and the union is successful, then that would be a bar to organizing any trade division or different trades would have no say in who would represent them. Where is the workplace democracy in that?

Now for the multi-trade certifications, I would have to assume that each trade division applied for would have an employee working in it who is a journeyman or registered apprentice. I suppose the difference would be that an all-employee certification could include clerical staff or non-tradespeople or employees. Once certified, these all-employee, multi-trade unions would no longer fall under the construction Act. None of the current proposals, if they go into effect, would apply to these units. If the only reason for this change is to bring more unions and employers into the province, it could have been done by ministerial order and left a successful system in place.

In the backgrounder dated March 10, 2009, under key amendments, it states, “allow employers to choose the REO that represents them,” but I’m not sure how this amendment will accomplish that. The way that I understand it in reading Bill 80, if a single trade certification is granted, the employer is bound by the REO [representative employer organization] in place at the time, and if an all-employee, multi-trade certification is granted, the whole structure of REOs in the construction Act no longer applies and the employer would be left to bargain independently or through a third party to whom they have given their bargaining rights. So I suppose that the only employers who will have free choice are those certified outside of the traditional trade lines. Does this seem fair?

When you consider voluntary recognition, then the idea of workplace democracy disappears. It will be the employer who will pick the union of their choice and use it as a bar to being certified by other unions. In this case, the employees have no say in who would represent them, what their wages/benefits would be, and what type of grievance procedures would be in place to protect them in the workplace environment. This could lead to a job site having workers working under conditions included in several agreements. There would be the various building trades agreements, alternate union agreements, and non-union. This, in my opinion, does not lend itself to a safe and productive work site. Is this government willing to take the chance?

The issue of abandonment in the construction sector has apparently been contentious and what could not be won in the courts will be won in the legislature. At the core of the issue is the construction contractor trying to tie inactivity to abandonment. If a contractor does not hire any employees within the union’s unit, the union has no employees that they have abandoned. The issue is a complex one but in most cases the courts agree with this assumption.

The main objective to this portion of Bill 80, in my opinion, is the retroactivity proposed. I believe that legislators should be very careful when setting any precedents in regard to

retroactivity of a Bill, especially one as far-reaching as in this case. It is interesting that this portion of the Act will not be imposed on any unions in Saskatchewan other than the building trades unions, because I have to assume the decisions regarding court actions in the construction industry, and I quote from the backgrounder, March 10, 2009:

Providing clarity/fairness . . . Recent Labour Relations Board decisions have identified a need for an abandonment provision in the CILRA.

I can only say that because the case was not won, they wish to go back in time to rectify what I can only assume in their minds is a bad decision. As I said before, be very careful about instituting retroactivity in the pursuit of your goals.

Number three: maintenance. Backgrounder, March 10, 2009:

Providing clarity/fairness . . . Saskatchewan legislation includes “maintenance” in its definition of construction. This has limited the number of companies willing to bid on industrial maintenance jobs.

The reason for including maintenance in the CILRA [*The Construction Industry Labour Relations Act*] was because, in the contract maintenance industries, the workers are taken from the same pool of labour as the construction industry, and it seems fair that those companies contribute to the bargaining process and be given the same ability to make use of programs such as safety, training, etc.

In my capacity as an international representative, I sat on the general presidents’ maintenance committee, which negotiates and administers contract maintenance agreements across Canada, and has done so since 1952. In 2008, over 22 million man-hours were worked across Canada under this agreement. There has been a contract maintenance agreement at Mosaic since 1968, and at Saskferco since 1991. I can assure you that removing maintenance from the construction Act will not bring any more competition into the industrial maintenance sector. The employers we deal with have to renew their agreements with the owners, and they are always confronted with competition, so this change baffles me as to the actual intent.

In conclusion I wish to comment on the consultation process that took place before these hearings. The parties who were most affected by these changes — building trades unions and CLR contractors — were not given any indication that this government was looking to changes to the construction Act, and it is my understanding that they only heard about what proposed changes would be when handed the backgrounder on the morning that Bill 80 was put forward for first reading. I understand that the only consultation took place was with CLAC and the Progressive Contractors Association of Canada.

This hardly seems a prudent road for a government that espouses fairness and democracy. For the most part of the changes proposed reflect the process. I can only finish with the heading from Murray Mandryk’s column — and I don’t usually quote Murray Mandryk — dated June 16, 2009, “If it ain’t broke, then why meddle?” Thank you.

The Chair: — Thank you, Mr. Ottenson. Very good

presentation. We will move on to questions. Mr. LeClerc, you're up first.

Mr. LeClerc: — Thank you very much for your presentation, sir. You were part of the tripartite board that drafted the original labour relations Act in 1992. What do you think of the changes of that Act in the year 2000?

From my understanding — and I'm not a labour relations expert and so I'm just trying to understand all of this — it seems to me that the biggest part of the problem has been brought up over and over again as some of the changes that were done to the original Act that you put into place or were part of from 2000, which included changing all of the abandonment issues and changing some other things. And we had quite a detailed presentation on what those changes meant and the amount of companies that were involved, and some of them obviously national companies, like Graham and the last person. So could you tell me what your opinion is of those changes from the year 2000 since you were part of the original drafting of the 1992 piece?

Mr. Ottenson: — When we drafted the original Act, they grandfathered the spinoffs that had occurred in 1982. In fact the unionized sector of the construction industry went from approximately 73 per cent of the sector down to 14 per cent in a matter of one year after the repeal of the original construction Act and led to some instability.

When we did the Act, there was some concern over retroactivity, which is what's being presented here as in regards to abandonment. I think what we have to — as I said in my presentation — is under *The Trade Union Act* in Saskatchewan the only people that can choose to be union or to choose to be done with the union are the employees. A company cannot do that. So these certifications were still in place with the main, mostly general contractors. And it was our opinion that as far as the building trades was concerned, was that they were bound because of the way the Act was structured to the collective agreements which had some provisions for subcontracting, and that was the main gist of wanting to have that changed.

There's no point in having certification . . . I mean what is happening with certifications is that they're trying to tie abandonment to inactivity. In the construction industry, you have sometimes years, you have a company that bids — especially subcontractors that will come in and bid a job that lasts six months, a year. They get certified. They don't come back to the province for three or four or five years because they don't have a job.

Mr. LeClerc: — My understanding, sir — and please correct me if I'm wrong — is that it wasn't the 1992 legislation that you were involved with that caused the problem around abandonment. My question is, the 2000 changes to the legislation that you were part of, that has caused in their changes apparently the problems in terms of the grandfathering and some of the other things that your legislation addressed so that wouldn't happen, and that the legislation in the year 2000 seems to have . . . [inaudible] . . . that. And the problems have only come since that around the abandonment issue. Am I wrong?

Mr. Ottenson: — No.

Mr. LeClerc: — Okay.

Mr. Ottenson: — That's the short answer. I will say, though, it wasn't my legislation.

Mr. LeClerc: — Okay. Thank you, sir. Trying to understand how, and to quote the hon. member from across the way there, to be pointed and open, how would other unions coming into this province, giving alternative unions — as I think you called it — and the freedom of choice for union members, how would that harm, how would that be a disadvantage if members of different trades were represented by the same union?

I'm trying to understand because for me a union is a union protecting the rights of the workers, negotiating for the right contracts, attracting as many workers as they can to that union because it's a good union and they're proactive and they're forceful and they hammer out good benefits and prices or wages for their employees. I'm trying to understand how stopping unions from coming into the province hurts unions, and why barring a union is a good thing instead of a bad thing.

Mr. Ottenson: — Well my personal opinion on that is that if we are going to have a construction Act to deal with the construction industry, which is somewhat unique, then all players in that industry should be bound by that Act. When you starting running parallel systems where one is bound by a set of rules that are this and others are not, such as Alberta which, the CLAC contract, CLAC is not bound by the construction part of the code.

And we don't have a problem with competing against anyone in the industry. We've been doing it for years and we've been rather successful in some places.

Mr. LeClerc: — But that would be my point, sir, is not the non-union people, the 80 per cent who are non-unionized.

Would not CLAC or some of the other unions that wish to come into this province be in the same playing field as the non-union construction people? I mean, I'm trying to understand what is the difference between the non-union people that operate within this province and new unions coming into this province. What would be the difference between them?

We have a labour shortage. These unions and CLAC, who have 23, 26,000 workers, other companies such as Graham and PSL and the ones that have been saying that they would come into this province to give us, we would have more residents. And I'm trying to understand what the competitive disadvantage is, for lack of a better term, between them coming in and the difference between our current unions and our non-unions.

And I don't understand what . . . And please, I mean this legitimately. I don't understand what the disadvantage is in the competition factor of it. I mean you still have freedom of choice for people to join whatever union or non-union, in this case 80 per cent, and they're still competing in the same marketplace.

Mr. Ottenson: — That's a very hard . . . The construction industry is fairly complex. When you start getting into, like the

previous speakers, PCL, they have no direct hire construction workers. They will subcontract to subcontractors. And they made that statement. They have over 1,000 people working as subcontractors. Some of those subcontractors will be union, some will be non-union, some will be alternate union if this Bill passes.

[11:15]

I have a problem in the construction industry with an all-employee cert. And I think that the construction industry is based on trade divisions, and you have to keep your trade divisions in order to keep your apprenticeship strong, in order to keep the proper people in the field that can do the proper work. Cross-crafting is fine. They tried that experiment in British Columbia, and in British Columbia it fell flat on their face and if . . . I just can't see, I don't want to see that happening in this province. I've been in this province a long time. I don't want to see that happening.

Mr. LeClerc: — Sir, one final question, and you've brought it up a couple of times in your answers, that the construction industry is unique unto itself. And I guess my question is, why should the construction sector be different from other sectors? And I've asked this question to previous presenters with respect to the labour relation and bargaining structures provided under *The Trade Union Act*: why should they be different than the other sectors?

Mr. Ottenson: — Well in the other sector, in most cases, you have a unit that has a plant or a building they work out of or some other place. In the construction sector, you have contractors who may be working now and not have work tomorrow. You have employees that you only need for one-week, two-week, or three-week time frame.

Now if you need somebody for three weeks and you need a person who is trained in a specific craft, then the building trades unions were set up to supply that, so that you didn't have to go through a whole bunch of stuff when you're hiring and trying to find somebody. You didn't have to worry about whether they were properly trained or not. I mean, when we were called out to send a journeyperson, then the company knows that the person we sent was a journeyperson. When you put the ads in the paper and you go through a whole bunch of things to get people — and I think that's the biggest difference between — and you could have 15 crews working on 15 different job sites, doing 15 different types of project. I think that's the main difference between the regular unions and what some of the problems in the building trades is.

Mr. LeClerc: — Thank you, sir, for your presentation once again. Thank you for the clarity of your answers.

The Chair: — Thank you, Mr. LeClerc. Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. Mr. Ottenson, obviously from your presentation you've been in the construction industry for a long time and what I would like you to, if you would, indicate to us . . . You indicated at one point that 73 per cent of the environment was unionized and dropped to 14 per cent in 1984. It appears that there's been a number of changes over a prolonged period of time here. Could you give

us some background and history of sort of what has happened, what happened prior to 1984 and sort of forward so we have some sense what changes have occurred that have brought us to this point and where we're at.

Mr. Ottenson: — The figure of 73 per cent down to 14 comes out of a report that was done by Richard Hornung for the then Devine government. I believe that Mr. Sherstobitoff and Mr. Seiferling were on that panel with him and they did the study. And they found that the repeal of the construction Act was devastating to the building trades. They went from having 73 per cent of the marketplace to having 14 per cent due in all cases to — at least in my opinion — to the spinoff, the ability to spin off by the various companies. So one day you were union, next day you were non-union. In fact our organization lost 90 per cent of our roofing industry to the non-union, and that was overnight. That was in one day they were union, the next day they set up and they were non-union.

So I really believe that was an unintended result of that legislation. It may not have been but I believe it was unintended and we've been climbing out of the . . . Well right now I think we've got 19 per cent, as I said from the government figures that were put out in that background. And if you believe that bringing in CLAC or the other unions is going to increase that market share for the unionization, it is not. If you look at Alberta, Alberta has 17 per cent of the marketplace is union. CLAC is part of that unionized sector, so we're all taking the people from the same . . . When these people come in, they're not going to be bringing in brand new people to work here. They're going to be using the people that are here.

On occasion, I mean the building trades unions bring in people. You know we've probably had more than 1,000 extra workers that have come in from across Canada, from our halls across Canada. And that's one of the advantages that the building trades gives. And that's one of the reasons we're used on maintenance so much. Because in shutdowns, they want to have 200 tradespeople or 1,000 tradespeople overnight.

In Alberta, there are shutdowns that take 4,000 people for six weeks. You don't get those just by snapping your finger. You have to work hard to supply that job site. There was a shutdown at Husky that took 1,200 people that lasted less than a month. And that's some of the other differences within the building trades, is that we have the ability to supply large numbers of skilled labour at short notice. And I'm not too sure that some of these other unions have that ability.

We have a system that has been in place for over 100 years. Our hiring hall systems have been in place for over 100 years, and that's how we keep our contractors competitive.

Mr. Yates: — Thank you very much. My next question has to do with the collective bargaining process and the loss, and trying to look at why companies may want this legislation when it's all the same pool of workers and they'd all have to hire from the same pool of workers and that as well.

In 1984, and I guess that's an example, when spinoff companies were brought about or people went from union to non-unionized, was there a decrease in salary and benefits to employees as a result of going non-union? Or why would

companies who were operating one way decide to, and had for many years in a unionized environment, just want to be non-union? Why would they want to do that unless there was some benefit? And I would need to understand what that benefit is.

Mr. Ottenson: — Well I can speak for our organization. In our organization we went from having a single contract to having a commercial and an industrial contract. The commercial rate was lower by a couple of dollars than the industrial rate. At times, we had to do project agreements, because we were bidding against people that paid, not so much less in dollars, but a lot less in the benefits, such as pension, health, and welfare. That kind of stuff.

And I mean, we're a proponent and the other unions may say they have the same benefits and that now, but I can tell you that in a lot of cases that's an RRSP [Registered Retirement Savings Plan] that's matched. And the problem with RRSPs and the construction industry is that if a person is unemployed for any length of time, he's going to draw down on his RRSPs. At least in the union sector, they have not got access to their money. Well I should say they can transfer it out, but it is locked in to age 60 because we want them to have a pension.

I kind of got off course there, I think, from your question. You wanted a timeline.

Mr. Yates: — Thank you very much. My final question then, and it comes from what you just said, so of a total cost with wages and benefits, normally a company or business fixes a cost, whether it's \$40 now or \$50 or whatever. In the changes in 1984, did we see a reduction in the total cost to employers?

Mr. Ottenson: — Yes, but I would like to stipulate that our wages went down by about 25 per cent. The bids, the difference between the bids was 3 per cent. So somebody was taking the money and using it to their own benefit, I suppose.

And I wanted to get back to the gentleman that asked me about the revisions to the Act in 2000. I was not part of that process. I only sat on the original committee in 1992 so I don't know. By that time I'd already gone to the international so I was not involved with the local, whatever was happening on the local level.

Mr. Yates: — Thank you very much. If I could have one final question. The implementation of the abandonment provisions and other provisions in Bill 80, with your experience would you anticipate that we would see a decrease in overall wages and benefits to employees in the province, in the construction sector?

Mr. Ottenson: — That could happen. It depends on how . . . I suppose the labour board will have some fairly far-reaching abilities under this Act in regards to deciding whether there's abandonment or not. If they decide that they have been abandoned, then they would be able to operate non-union. And in my years, I have yet to find a non-union sector that actually pays the same total package benefits — wages, benefits, and everything else. So the short answer would be, I believe so.

Mr. Yates: — Thank you very much. Those are my questions.

Mr. Ottenson: — I wish I could see the future, but I can't.

The Chair: — Thank you, Mr. Yates. We have a few, very few minutes left. We have three speakers that have indicated they want their questions asked, so I'd ask us to keep it as brief as possible. Mr. Hart, you're first.

Mr. Hart: — Thank you, Mr. Chair. And thank you, Mr. Ottenson, for your presentation. You raised the issue of maintenance and maintenance in the industrial sector. What percentage of contractors . . . And you'd mentioned that there's only certain companies that'll bid on these large maintenance projects. You mentioned Mosaic and Saskferco. And SaskPower and the upgrader here, I'm sure, in Regina, would all fall in the same category.

Of those companies that do that work, the general contractors . . . I'm assuming that it's done with a general contractor and subtrades, but you certainly would have more knowledge on that. But my question is, what percentage of those companies working in that, particularly on maintenance, would be unionized versus non-unionized?

Mr. Ottenson: — Well I'd like to refer to it as contract maintenance as opposed to maintenance. We do contract maintenance. The plant may have in-house maintenance people that they use, whether they're union or non-union. The Co-op upgrader here has in-plant people who belong to the CEP [Communications, Energy and Paperworkers Union of Canada], and they do their day-to-day maintenance. We have some contracts where we do all the maintenance. To give you a definitive answer on percentage, it's probably higher than the construction on the industrial maintenance, but I wouldn't think a whole bunch higher.

I mean we have an awful lot of plants that are maintained in this country. Although 22 million man-hours is probably, to put it in perspective, is like doing a \$4 billion project. That's the amount of work that is done. And the vast majority of our work is done by two or three major contractors that do only maintenance.

Mr. Hart: — And those two or three or number of contractors that you just mentioned, are they unionized, non-union, or is it a mix?

Mr. Ottenson: — No, they're unionized.

Mr. Hart: — They're unionized.

Mr. Ottenson: — Well I should mention we also have a national maintenance agreement which is for short-term maintenance. And in the province of Alberta, there's 154 contractors signed to that.

[11:30]

Mr. Hart: — Of those 154, they'd all be unionized contractors or . . .

Mr. Ottenson: — Yes.

Mr. Hart: — Does the non-union, the contractors, would they be involved in these large maintenance at the same level? I'm

just trying to get a sense around this whole maintenance area as to how some of the, you know, changes may impact that. It seems to me when we have maintenance shutdowns and maintenance taking place at these large industrial sites, I think the last thing we would want is labour unrest and so on. But in order for me to determine that, I need to get a bit of a sense of, you know, what the current situation is there in the union versus non-union and so on. And I was wondering if you could help me with that.

Mr. Ottenson: — I guess the best example of that would be the Husky oil upgrader where we've had a maintenance contract for, well since it was built, so I think the early '90s. We only do specific parts. The owner, when he puts out the contract package, will stipulate that you're going to have boilermakers, sheet metal, ironworkers, that kind of thing. And some of the specialty work will be subcontracted to non-union or union or alternate union. So there are cases where we're working on sites and in the maintenance industry and we don't have the whole package.

Mr. Hart: — Okay. Oh no, thank you for that.

Mr. Ottenson: — Okay.

The Chair: — Thank you, Mr. Hart. Ms. Eagles.

Ms. Eagles: — Yes. Mr. Ottenson, thank you very much for your presentation. In responding to a question from Mr. Yates, you spoke of how back, I believe it was, in 1984, it went from union to non-union practically overnight. Then you mentioned a report by a gentlemen — I believe his name was Richard Hornung — and you were speaking of the effects of going from union to non-union. But then you added — at least in my opinion — and I was wondering if what the effects were in fact your opinion or if that was an inclusion of the report.

Mr. Ottenson: — You mean the percentage of unionization?

Ms. Eagles: — That and, you know, the wages and things like that. Was all that part of . . .

Mr. Ottenson: — I think that was a direct result of the repeal of *The Construction Industry Labour Relations Act* by the Devine government.

Ms. Eagles: — You think that. So that's your opinion then.

Mr. Ottenson: — Well I believe so. But in the report . . . And you can get it. It's probably available. The report was done in 1985. And in the report, it mentions that that was one of the effects caused by the repeal of the Act.

Ms. Eagles: — And then I just have, I'll combine my last two questions, sir. When you spoke of union versus non-union, you were speaking of the benefits package — pension package, I guess — and it was really strictly limited to RRSPs, you felt, in most cases. And also you stated that you haven't found a non-union that pays the same wages including benefits as a union does. And I was just wondering like, you know, how extensive your research was on that or if you have something on paper that you could supply to the committee.

Mr. Ottenson: — Well something on paper to supply to the committee would be rather difficult, I think, because there are so many non-union companies, and we're not privy to their payrolls to find out exactly what they've been paying. What we do is we talk to the non-union people, and they tell us basically what they are getting for wages and benefits. And with the upturn, and I have to say that with the upturn, they came a lot closer to the unionized rates because of the non-availability of people. So when you're bidding for people in a marketplace, then you're going to be paying more and bring it up to the level that you think will get those people for you.

Ms. Eagles: — Thank you, sir.

The Chair: — Ms. Schriemer.

Ms. Schriemer: — Thank you for your presentation, sir. I just want to clarify a point. You had commented that the pensions are locked in till age 60?

Mr. Ottenson: — In most cases, yes.

Ms. Schriemer: — In union or non-union shop?

Mr. Ottenson: — In union. Under our trust documents it states that . . . And because the pension law in Saskatchewan allows you to roll your money out of the pension plan — and I won't get into defined benefits and money purchase and that kind of stuff — but what we did is put in ours that if you do roll it out and into an RRSP of some sort, it has to be locked in to age 60.

Ms. Schriemer: — Okay. I guess . . .

Mr. Ottenson: — Then there is some discrepancy if you had employee and employer and etc., but I don't want to get into logistics.

Ms. Schriemer: — Yes. I know that in the police association, of which I'm a member, the federal government changed the laws around pensions. And pensions have to be portable. You have to be given the access to roll it over, and how you use it after that. You can't lock it in till 60. So I just beg the question, what's . . .

Mr. Ottenson: — Well it's been approved by the pension branch in Saskatchewan, so I don't know.

Ms. Schriemer: — So it's a good point that I'll have someone do research on.

Mr. Ottenson: — I'm not a lawyer, so . . .

Ms. Schriemer: — Thank God.

Mr. Ottenson: — Never wanted to be one.

Ms. Schriemer: — Thank you, sir.

The Chair: — Thank you, Ms. Schriemer. We'll have one more question from Ms. Morin before we break for lunch.

Ms. Morin: — Thank you, Mr. Chair. And thank you for your presentation, Mr. Ottenson. I'm just quickly trying to wade

through some of the briefings that have been presented to the committee, and it's very interesting reading from all viewpoints. I do have something that jumped out at me, and I'm just wondering if you might be able to speak to this.

Because there is all this discussion about opening up the possibility of other union representatives that seem to be historically driving the wages and benefits lower, in terms of the evidence that's been presented in terms of other provinces, I'm interested in a quote that's in one of the briefing materials that talks about a quote from *Alberta Venture* magazine that says — *Alberta Venture* magazine, which is the province's most widely read business magazine — and it says, the Christian labour organization of Canada has caused “so much controversy in Fort McMurray that it has sparked fist fights and rallies by rival tradespeople who take union affiliations so seriously they wear their opposition to CLAC on T-shirts and hard hats.”

I'm wondering if you have any anecdotal evidence or any other comments to make about some of the obvious dissension that this seems to be creating in Alberta, because clearly I'm trying to understand as well why the government wants to implement a Bill that doesn't seem like it's needed in terms of the industry moving forward in this province. It seems like things are firing on all cylinders. We don't have a lot of labour unrest in this province.

So I'm trying to understand why this Bill is being introduced and, you know, what the reasons would be for it. Given this quote in this presentation from *Alberta Venture* magazine, and given that this quote is suggesting that there is dissension in Alberta with its system, how do you feel about the possibilities of that happening here in this province?

Mr. Ottenson: — Well I think it could happen. As I said before, if you're going to have an Act related to construction, everyone should be covered by that Act. And I believe that in order to have stability on job sites that you should have a province-wide agreement that can still talk to being competitive and getting work for the workers.

I mean I might get shot by some people, but I think that if you are going to bring in the CLACs or some others, then allow them to represent on a trade-by-trade basis and have them at the table when you're bargaining and have their contractors part of the REO. And let's sit down and let's not make the wages of the workingman the competitive section; let's make the productivity and the efficiencies of the companies. Because when you look at the costs of projects, the wages costs have not risen anywhere near what the costs of materials, etc., have been.

So in my opinion, there should be one agreement in the unionized construction industry. The non-union can go do whatever they want, but in the unionized construction industry, there should be one agreement that covers everyone, preferably on a trade-by-trade basis. But when you start setting up two systems, and one can go do whatever they want and the other one's bound to do it this way, it causes dissension on the job sites, as I said.

And I tell you what, on a job site with 2,000 people, you can start a rumour at noon and by about 1 o'clock it's gone around the whole thing. And it doesn't take long to get them motivated

to do things that they shouldn't be doing. So that's just my opinion.

Ms. Morin: — So my understanding too, I mean from the history of all of this, is that the — how should I say — the origins of *The Construction Industry Labour Relations Act* were really something that both the employers and the employees were looking for when it first was derived. Because of the fact that there was dissension, uneven playing field, confusion, whatever other adjectives one might want to find to describe it. So if that was the origin of this Act and it has progressed from that in terms of, you know, the tweaking of it, do you think that Bill 80 is breaking the spirit of the origins of what the employers and employees were acting for when the origins of the Act were established?

Mr. Ottenson: — The short answer is, yes. I think what we should remember is the original Act was brought into place with the employers' organization, the SCLRA [Saskatchewan Construction Labour Relations Association] at the time and the unions onside. Because every two years we had a strike in the construction industry. And you can't do business doing that way. You just can't do business. Every two years we had a strike. And that, under these Acts and this last Act, there hasn't been a strike in this province for 17 years. So I think it did what it was supposed to be doing.

Ms. Morin: — Thank you very much, Mr. Chair. Those are my questions.

The Chair: — Thank you, Ms. Morin. With that, Mr. Ottenson, thank you very much for presenting to the committee, and the very clear answers you have provided.

We will be breaking till 1 o'clock sharp, and we will be back for the next presenters. Thank you again.

[The committee recessed for a period of time.]

[13:00]

The Chair: — Good afternoon, ladies and gentlemen. I trust everybody had a nice lunch. Again I'll just repeat, we are here for consideration of Bill No. 80, *The Construction Industry Labour Relations Amendment Act, 2009*. Presenters that have brought along submissions are giving them to the Clerk, so they will be tabled with the committee and become public information on the website at legassembly.sk.ca/committees/.

Welcome to the presenters. Upon official introduction, I would ask them just to introduce themselves specifically for the committee knowledge and for the information of Hansard. And just to let you know the process we are going is, are loosely 30-minute presentation — 20 minutes for presentation and allowing as much time as possible for questions afterwards, right around the 10-minute mark. And I will give you about a five-minute warning if it's needed to let you know that we are getting to the end of the 20 minutes.

So thank you very much and welcome to the International Union of Bricklayers and Allied Craftworkers. Just go ahead with your presentation, please.

**Presenter: International Union of Bricklayers
and Allied Craftworkers**

Mr. Aitken: — And it's Local 1 Saskatchewan, who I think is actually the more important party here today.

The Chair: — Thank you.

Mr. Aitken: — My name is Graeme Aitken, and my colleague . . .

Mr. Medernach: — Clarence Medernach.

Mr. Aitken: — Thank you for the opportunity to appear. Before we get started with anything, I do want to thank publicly and personally Ms. Joelle Perras, the committee researcher, for her professionalism, guidance, and understanding throughout the process when we were getting our submissions in. It was a little bit unique to us, and she was extremely helpful. And I don't envy your role, Ms. Perras, coming up either, because of all of the research that I think is going to have to be done to get through all of our positions to the actual facts of the matter. So once again, thank you.

To the committee: you have our written submissions and trust that you will have read them or you will read them. And so we're not going to spend a lot of time; we're not going to recite them to you. I don't think that that's necessary. Clearly all of you are intelligent individuals who can read, so I'm not going to bother with that.

Mr. Medernach and I will give you brief bios on ourselves so that you can get an understanding as to why we are committed to the province of Saskatchewan and why we have a vested interest in this potential province-altering legislation, in our view. Following the bios and a quick bit of background on our organizations, we plan to address some of the issues raised by other witnesses, provide our what we believe is unique perspective as a small trade union that represents very specific craft workers, and then hopefully engage with the committee, as others have, so that we can try to come to an understanding as to why this is on the table. Because quite frankly, we're confused.

Clarence, do you want to . . .

Mr. Medernach: — Yes. Thank you. Good afternoon and thank you for this opportunity. I'm Clarence Medernach, president and secretary-treasurer of Bricklayers and Allied Craftworkers Local 1 Saskatchewan, born and raised in Saskatchewan. Other than for a few years when I travelled to other provinces to work. I spent my life here and raised my family here.

I started my membership in a local as an apprentice in 1975, and I continued in the trade as apprentice, on to bricklayer, foreman, and up to 1994 as a bricklayer, periodically still working on the tools after 1994. And in 1994 I became the principal officer of the local union, and like I said, continue working at the trade.

I'm now full-time principal officer of the local, and we are possibly the oldest union in Saskatchewan. Our history reaches

back over 100 years — August 9, 1906. In March 2007, we celebrated our anniversary with industry partners, contractors, architects, engineers, owners, and one of your colleagues, Ken Krawetz, actually attended it. And talk to him; I think you'll find out he had a very good time.

Through the years in office, the local has been more involved in recruitment of workers and training. I worked at Sask. Apprenticeship to get the bricklaying apprenticeship course back on track. We partnered with the First Nations Employment Centre to have the local better represent the demographics of the province. The local of approximately 200 members funded \$50,000 for this course.

In October 2007, the local partnership with International Masonry Institute to address any possible skill shortages that we may face. International Masonry Institute is a partnership between our signatory contractors in North America and our international union to deliver training, promotion, and technical assistance to industry partners. We have since bought a facility for training partnered with Regina Trades and Skills Centre and are working with Regina Trades and Skills Centres on more training this fall. In addition we are working with school boards to introduce masonry to the schools' career spotlight program which we hope will lead to more opportunities for Saskatchewan youth.

Our programs and partnerships are totally supported with funding by the membership of the local. Thank you.

Mr. Aitken: — I'm an electrician by trade, began my apprenticeship in Hamilton, Ontario, and moved on to become an organizer for the IBEW [International Brotherhood of Electrical Workers] in southern Ontario — and I'm a little tentative to tell you the next part, given Ms. Schriemer's comments with the last witness but — I then went on to law school, was in private practice, and now am assistant to the president for the International Union of Bricklayers and Allied Craftworkers.

My travels take me all over Canada, but I can honestly say I have a real love for this province. The people here are honest. The businesses — whether I'm speaking of construction businesses or people — they're honest, they're welcoming. And I truly love coming to this province, so I've taken great pride and fully dedicated myself to finding made-in-Saskatchewan solutions for the Saskatchewan problems we find in the masonry industry here. It's a crucial element in performance of my duties.

Solutions can be found here, in our respectful view, without legislative intervention. Solutions can be found here for the problems faced here. And we implore, we ask, we plead: don't gamble on legislation; let's try and find the solutions here.

I first want to deal with the alleged infringement on freedom of choice argument that's been bandied about over the last day and a half. With all due respect to the witnesses and the discussions, everything that's been discussed on this is absent of grounding in law and fact.

As we referenced in our written submissions — and it's at the early end of our submissions; it's at the front end — the

suggestion that this type of freedom is or should be unfettered is simply incorrect.

The Canadian Charter of Rights, which someone quoted earlier today and I think was brought out yesterday, while providing protection for freedoms — and that's for government actions of course — also explicitly recognizes that those freedoms are subject to interference when they're balanced against the interests of larger society.

We've dealt with this, as I said, and in our view this freedom of choice that seems to be suggested to this committee as absolute must be considered in light of the construction industry in Saskatchewan as a whole. And as a result of its importance to Saskatchewan as a province, it must be balanced against the province and the interests of the province. It's not an absolute freedom. And I think much of this arises from the BC [British Columbia] health care case, and I would urge you to read that case and suggest to you quite strongly there's nothing in BC health care that would suggest that the current CILRA is ultra vires the Constitution.

Coincidentally — and some people might not suggest it's such a coincidence — CEP has filed an application before the Saskatchewan Labour Relations Board claiming that CILRA is ultra vires the Constitution. It's interesting, and we respectfully submit quite revealing, that this application was filed with respect to a group of employees who were working for an employer with a rich history — a very rich history — of shirking its contractual and legislative responsibilities.

In fact this employer purchased a signatory contractor of ours in British Columbia. At least we believed they purchased them; we're still trying to wade through all of that. We had a collective agreement with this contractor. After the alleged sale, we were informed that they had decided they're no longer going to bargain with us, contract aside, and they're going to form or had formed a bargaining relationship with CEP.

Not surprisingly then, CEP and this very employer, after doing similar things in Alberta also, are before your board in Saskatchewan trying to upset a well-established labour relations system. Of course, in the interest of ensuring that we're not just putting forth a position, if this committee so desires, we are quite willing to provide you with all of our legal documents and paperwork to prove the comments I've just made with respect to CEP in British Columbia and in Alberta.

So here we have two parties, this contractor and CEP, with a history of upsetting relationships in the construction industry in Western Canada. And we ask this committee, are these the actors or the types of actors for whom the government proposes amending the labour relations legislation?

We didn't deal with it in our submissions. As I said at the outset, we were a little confused. We don't see the nexus between the problem stated in the background and the proposed legislation. So we were a little confused, and we didn't go into anything about CEP or CLAC or alternative unions or any of those things in our submissions. But having heard the witnesses over the last day and a half, I think it's important and this is probably a good enough time, as I've been talking about CEP. In fact, Mr. Fougere mentioned CEP 12 to

20 times in his 20 minutes on the witness stand. So clearly, CEP is an issue. We don't understand why.

I'm not going to get into the issues of an employer's union, a union of choice, an alternative union or any of those things, whether they're legitimate construction industry unions. I think that's better left to you as a committee in camera, to your researchers, and to further submissions.

But I want to discuss — and I would ask you as well to look at jurisdictions like Nova Scotia when dealing with the issue of CLAC or CEP — but I do want to talk to you about how CEP and CLAC don't measure up, in our respectful view, to Local 1, Saskatchewan, of the International Union of Bricklayers and Allied Craftworkers.

As Mr. Medernach told you in his bio and introduction, Local 1 has over 100 years construction industry, masonry industry experience in the province of Saskatchewan. Our international union as an organization has over 110 years experience all across North America. CLAC doesn't have 100 years experience in the construction industry. They don't have 100 years experience. CEP doesn't have any history to speak of in the construction industry. They've been at it for less than five years.

This is a union, CEP, who came into construction much like CAW [Canadian Auto Workers] did in Ontario, because they were losing, they were hemorrhaging members from their traditional representative base of pulp and paper. What are we going to do? We have to look elsewhere. They upset labour relations in the province of British Columbia by teaming with a breakaway local of the carpenters, and that's how they got into construction. CEP gains members by raiding existing trade unions. They don't organize.

It strikes me in this province that regardless of which side of the aisle someone is from, regardless of what stripes they wear politically or socially, everyone in this province, it seems to me, wants the betterment of workers. Bettering workers is bringing them up to a higher level by giving them greater wages and better benefits, not by cherry-picking units that already have those items. True unions go after the unorganized and try to help those workers by giving them the benefits; CEP doesn't do that.

In addition, we would ask that you please look at their history in Alberta. We'd be happy to do the research if the research burden is too great for this committee. But we're quite certain — we know anecdotally, but we're happy to do the research so that we have it more than anecdotally — that they're not meeting their skilled labour requirements that they committed to in the province of Alberta. If Bill 80 is being enacted, even in part, even in small part to allow the CEP and/or CLAC into the province, please, please do your homework.

There were a few other items raised by Mr. Fougere and Mr. — I don't know if I'm pronouncing this right — Thomarat that I think are important to deal with. The suggestion that Saskatchewan is the only province to dictate, I believe was the term they used, unions and REOs is, in our view, misleading. Many references were made to Ontario. I'm sure that you will have, or have already done so, looked at the Ontario *Labour*

Relations Act. In Ontario there are designated employer bargaining agencies and there are designated employee bargaining agencies. And they're designated by whom? By the Minister of Labour. Sounds strangely familiar, yet they keep pointing to that province.

The system, under the proposals, we feel, would move us farther away from Ontario rather than closer, where many of these witnesses are coming to you and saying, look at Ontario, look at Alberta, look at British Columbia.

Just a couple of other comments that we heard, and I have very simple responses to. We heard some numbers, several hundred to several thousand — but I think several hundred was the one we heard most often — CLAC members live in Saskatchewan and can't come to work here under their banner.

Let's be realistic. Let's be clear. They didn't become members of CLAC in Saskatchewan. It's more likely than not that they went to Alberta and in order to work, to ply their trade on a specific project, they had to belong to CLAC. It's no different than here. If an electrician wants to work under a union project in the province of Saskatchewan, he'll join the IBEW. That's how those members became CLAC members. They weren't running around Saskatchewan coming up with this union to try and come into the labour relations scene.

We're all unions of convenience when it comes to work. That's what I'm saying with respect to the members in CLAC. It's not a free choice they made, in our respectful view. We have no doubt that they would gladly join a building trades union if the work was promised for them here in Saskatchewan as well.

Contrary to Mr. Fougere's — and then Mr. Hildebrand today as well — their comments about cross-crafting, it does occur among and between building trades unions and our members. Mr. Fougere's example of a carpenter not being able to weld demonstrates his admitted . . . He did admit his naïveté towards the construction industry, specifically the ICI [industrial, commercial, institutional] construction industry. Most if not all of our tradespersons . . . all of our trades, rather, have welders. Carpenters have welders. Bricklayers have welders. Electricians have welders. Plumbers have welders. So that example just doesn't work.

[13:15]

We've been working with cross-crafting for years. I guess the biggest example of it right now is an industry that Mr. Ottenson referred to in maintenance industry. We've been working with cross-crafting with team approaches rather than crews. We're working with a team of various tradespersons that can cover the gambit of the work required and other types of arrangements throughout Canada. The suggestion that cross-crafting is not able to be done under the craft union system, under the building trades system is extremely misleading. Thank you, Mr. Chairman.

Which leads to the issue of craft unit and again I won't spend much time because it is mentioned in our submissions. But in our respectful view, there's no doubt there's only one option. It's the best option and that's a craft unit in construction.

And maybe I'll just go off a little bit because I heard Mr. LeClerc ask a question about what's unique about the construction industry and why does it have to have different sets of rules than the other industries. And I'd just like to take a moment to answer that in our view. When you look at the construction industry, here are the differences. It's cyclical. We have periods of boom. We have periods of bust. The employees have no relationship to their employer. The employee that goes in and works at a plant has a relationship with an employer for years and years and years. With a construction worker, regardless of affiliation, that relationship doesn't exist. It's temporary.

The Act regulates employers and the employee representatives of the employees. It's a moving workplace. Workers travel, contractors travel, work travels. If jobs shut down because there's not an effective scheme in place, then the economy dives. There needs to be a control. There needs to be an oversight on negotiations. Effective construction industry legislation does that.

Look to Crispo and Goldenberg report. Look to the Franks report, George Adams, Harry Arthurs. Any of those well-established, well-recognized and revered authors with respect to labour relations will speak to the uniqueness of the construction industry. We have hiring halls and we have portable benefits. And I hope, Mr. LeClerc, I've addressed that a little bit to your satisfaction at least.

A number of witnesses suggested that the CILRA prevents — and that was the word that was used, prevents — employers and employees from working in Saskatchewan. Thankfully this committee, both sides of this committee, have put that suggestion to rest. Equally spurious was the suggestion put forth that employees cannot decertify in this province, and again we thank the committee for putting that one and showing the folly of that suggestion.

It's also interesting to us that one would suggest to this committee that they stand for democracy when it comes to employees and yet they complain that contractors must — and I believe this is the right quote — accept the will of the majority and are not able to negotiate with their own employees. Is the point of that that the individual employer is prevented from providing greater wages and benefits? Because if that's the issue, I'm pretty certain — in fact I'm absolutely confident — that we can come to a solution on that very quickly . . . [inaudible interjection] . . . Five you said? I'll wrap up, then.

With respect to the suggestion that non-union contractors are as dedicated to training as union contractors, I cannot speak and won't pretend to speak on behalf of non-union contractors. But what I can testify to this committee about is the labour management training ventures, the upgrade training programs, the union training centres in our unionized sector of the industry. Mr. Medernach gave you a brief overview of IMI [International Masonry Institute] earlier. That's only one of our endeavours or undertakings in the masonry industry.

We know that there are other building trades unions — in fact, probably most of them — doing the same, or even more. Thus we don't simply support provincial training programs; we fund them, we run them, and we make sure they're Saskatchewan

programs. We invest in the construction industry in Saskatchewan.

And that, to us, brings us to what is the only issue. We filter through everything in the background, and the number one, the only issue is a lack of skilled workers in this province. Legislation is not going to attract those workers. Jobs will attract those workers. The workers that we have trained for years and years and years that go to Alberta to work don't go to Alberta because they like Alberta better. They're there because the wages are significantly higher. Those Saskatchewan tradespersons love this province as much as you folks do, I'm sure. They're in Alberta because that's where the work is.

I'm just going to wrap up with a couple of questions of this committee. Abandonment — please read our submissions on abandonment. Quite simply, I think you'll be surprised at our position on abandonment. Abandonment is to cure the problem of a contractor that's shirking its contractual responsibilities or trying to get back door on legislation. If we as a trade union ignore a contractor, don't represent our employees, fail to check up on job sites, and are generally negligent, quite frankly, we should lose them. We don't have a problem with that, and I know that might surprise some people.

But what we don't want is legislation that protects employers from going underground for three years, or whatever the term might be, and then popping back up and needing 55 workers.

We would ask the following questions. Why have no trade contractors come before you? You've heard from the PCLs; you've heard from great, big, monolithic, umbrella organizations. We're a trade union. Mr. Ottenson came as an individual. The carpenters, I believe, are scheduled to appear before this committee. You haven't heard from any of our contractors about a need for change in legislation. None of those contractors has come forth. None of the ones that we work with have come forth and said, bravo, thank you for Bill 80, because they don't need it. What they need is skilled workers, not legislative change.

The members of this committee obviously must be intelligent, perceptive people to have gotten to where they are today. You have to be able to see behind the dog-and-pony shows that we all put on for you. You have to be able to get past the show to the facts, or you wouldn't be here. So I ask this: if the Merit shop organizations and others who represent all or mostly non-union employers come before you and say, good job; good start; thank you; this is a great way to go with respect to legislation — and this is important, legislation that regulates the relationship between unionized contractors and their employee representatives — you have to ask yourself, why?

Let me repeat that because it's important. This is legislation that regulates outside their sphere of operation. Why are they coming before you and applauding the legislation? What are the motives to that? We have a vested interest in passing along our crafts to successor generations, Saskatchewan people. With over 100 years of contributions to this marvellous province, we plan to continue to grow with Saskatchewan and its needs. Can the same be said of those people who come and ask to get in the door now? I thank you and we welcome your questions.

The Chair: — Thank you, Mr. Aitken, Mr. Medernach. We'll now entertain questions from the floor for our guests. Mr. Yates is first.

Mr. Yates: — Thank you very much, Mr. Chair. My first question has to do . . . You, in your submission here, talked about that within Alberta that the all wall-to-wall unions were not — and I don't know if you used CEP or CLAC directly, the name — were not meeting their skilled labour requirements that they needed to meet, training requirements. Could you . . .

Mr. Aitken: — I want to be clear. Our evidence at this point is solely anecdotal, but if there is an interest in that on this committee's behalf, we'd be happy to do the research and provide you with some data that substantiates that.

Mr. Yates: — Thank you very much. That was going to be my question. How would we actually be able to obtain that factual information in order to know or fully understand that that's not occurring . . .

Mr. Aitken: — We will commit and endeavour to get that information to you, the way to get that information to you.

Mr. Yates: — Thank you very much. My next question has to do with . . . It's a question I've asked numerous presenters. In your experience, where you have a wall-to-wall union situation or an environment where you have wall-to-wall unions, have you seen a difference in overall compensation benefits to employees?

Mr. Aitken: — Again, Mr. Yates, thanks for the question, but I think that I'm in the same position as Mr. Ottenson. Anecdotally, absolutely. We go to jobs. We try to organize. We talk to workers in non-union environments and in other union environments, and so my evidence is solely anecdotal. There is a presenter coming up later in the program that may be able to help more on that, but the answer is anecdotal, yes.

Mr. Yates: — Thank you very much. My next question has to do with, you talk about a made-in-Saskatchewan solution, a willingness to work to solve whatever real problems there may be in the construction industry. Were you or the organization you represent or to your knowledge any of the trade unions in Saskatchewan approached with these problems?

Mr. Aitken: — No, Mr. Yates, we weren't approached with these problems by our contractors or by the government or by our contractor associations.

Mr. Yates: — Okay. And then prior to the implementation of this legislation — pardon me, the introduction of this legislation; it isn't implemented yet — did you have any consultations? Did anybody talk to you about the need for this from the government or from any representatives of the government?

Mr. Aitken: — No. We're in no different position than anyone else that's testified before you. It was news to us.

Mr. Yates: — Okay. Thank you very much. My final question is, you talked about the companies that you provide employees for, the contractors. At no time did any of them approach you

with these problems? That's what I believe I heard you say prior to all of a sudden this legislation's before us.

Mr. Aitken: — Sure. If we look at the backgrounder, Mr. Yates, and we look at the perceived problems, providing clarity and fairness or rebuilding Saskatchewan's infrastructure, respecting the constitution, the only one that our contractors have come to us with — and we're working with them as Mr. Medernach and I sit here — is a skills shortage. How do we get more young people trained as bricklayers? And that's why we've reached out to a number of communities, and that's what we're working with our contractors on. It's the only problem they've identified. And in fact at the moment we've had to reach outside the province for — six is it, roughly? — six bricklayers at the moment.

Mr. Yates: — Thank you very much. I have one final question on the issue of abandonment. You had indicated to us . . . You're a lawyer and obviously you practise labour law by your profession. In looking at this legislation on the issue of abandonment, would this legislation allow a company that has not been operating for a period of three years or more to simply bring forward a case on abandonment, and the ability to get out of a certification order by the back door, I guess?

Mr. Aitken: — Subject to how a board is instructed or guided in interpretation of legislation, I'd say that that's a very realistic possibility. That's what worries us about this proposed solution. We think it's a quick fix. We could look at solutions like what's in Ontario as an abandonment clause, and there have been cases in Ontario where the unions have been found to abandon their bargaining rights. And rightfully so, quite frankly, but overreaching in this regard. I think that your scenario is extremely possible to play out. And I think that's the exact harm we're trying to prevent — at least I hope it is.

Mr. Yates: — Thank you very much. And one very final question: under the present legal regime in Saskatchewan, have you, and are you aware of circumstances where a union can in fact lose certification on the issue of abandonment through the Labour Relations Board?

Mr. Aitken: — We haven't been in that situation, so my instruction to all my business managers is, stay on top of your employer. So we haven't been involved in any, no. Are you talking about abandonment or decertification?

Mr. Yates: — Well . . .

Mr. Aitken: — Because decertification, we have one of those going against us right now.

Mr. Yates: — My understanding is that the courts and the Labour Relations Board have in fact dealt with the issue of abandonment, and there are clear criteria that have been used in the province. And I was wondering if you were aware of that.

Mr. Aitken: — I wasn't.

Mr. Yates: — Okay. Thank you very much.

Mr. Aitken: — Thank you.

[13:30]

The Chair: — Thank you, Mr. Yates. Mr. LeClerc.

Mr. LeClerc: — Three quick, short questions. Thank you for your presentation and the clarity of it, and I know Hamilton very well having grown up around the corner from it, so it's . . . The aggressiveness is the Hamilton style, so trying to get through all of the rhetoric, there's a couple of questions that I wish to ask.

In the wording that you presented us in the people joining CLAC, you gave it the reason why they've joined CLAC is to seek labour or seek work. Why aren't they joining the other unions? I mean, they have other unions in the other province. CLAC isn't the single union in that province or any of the other provinces they exist in. There's a multiplicity of unions. And so your rationale is that the only reason they're in CLAC is to get work. Well if there's other unions existing, how come they're not joining the other ones? Why are they joining CLAC in among the other unions?

Mr. Aitken: — Sure. First of all I apologize if you thought there was rhetoric in there. I thought I toned it all down. I left all the hyperbole out. I suggested that it's more likely that an employee joined CLAC for a project. And what happened in Alberta is you have some projects that are non-union, you have some projects that are union, you have some projects that are CLAC. And so if a worker goes out of town, leaves Saskatchewan to go to work up in the oil sands, and the job that that person goes to is a CLAC job, that's who they join, just as they would join the building trades if it was a building trades job.

That's why I referred, Mr. LeClerc, that we're all unions of convenience at some point.

Mr. LeClerc: — But so you're not saying that CLAC is a bad union in and of itself, are you?

Mr. Aitken: — I'm going to leave that to the committee and their research to decide. My personal, if you want my personal view, I'm happy to give that. But I don't think that helps this committee very much.

Mr. LeClerc: — You also made a statement that the contractors themselves . . . And I'm not a construction person, union worker; my background is quite different. Most of my working career over the last 20 years has been involved with charity and CEO of charities, and so I've not been familiar with that. But you stated, and I know a number of contractors from Saskatoon Northwest that live in my riding. I've spoke to them in my office about this in great detail, because this is one of the issues that was brought to me, probably within two weeks after my election, especially around the abandonment issue.

And you're saying that the contractors in our list of witnesses haven't been here to promote or support Bill 80. So let me turn that around a bit. They also haven't been here to speak out about Bill 80, and I'm not sure that's a good argument that they haven't been here to support it as a reason not to support it as much as it is that they haven't been here to speak out against Bill 80 for me to take into consideration. Having said that, is

there a possible reason that they haven't come here to support Bill 80 or to speak out? Is there the possibility of a little bit of intimidation or fear if they are a unionized contractor?

Mr. Aitken: — Mr. LeClerc, we're speaking from the perspective, as I said from the outset, as what we think a rather unique union within a unique industry. We represent bricklayers, tile setters, stonemasons, so it's a very small group. And I want to be clear and I apologize if I wasn't. When I was talking about contractors, I'm talking about the contractors we deal with, our partners in the industry.

Mr. LeClerc: — Okay.

Mr. Aitken: — None of them have expressed to us . . . In fact, and Mr. Medernach might be able to speak to this better than I, but in fact contractors are worried. At least two of them that I'm aware of are worried what might happen under the new, proposed legislation. So when I was speaking about that — and again I just want to be clear — I was speaking about the contractors we deal with because that's all I can speak to.

Mr. LeClerc: — So that also could reflect the fact that you're a very good union and that your contractors and your workers don't have any problems with your leadership and I guess the engagement with the contractors and the wages paid and your track record. That may not necessarily be the case with all the unions. They may not all meet the standards of yours. Would that be fair to say?

Mr. Aitken: — I think that's a fair observation from where you're sitting, but I think that we'd like to think we're one of the top ones, but there are clearly a number of them, most of them if not all on our level, in our view.

Mr. LeClerc: — And my final question, sir, and this has not been a question just reserved for you; I've asked this before. I'm trying to figure out . . . It seems to me that there has been legislation put into place in 1992 that was changed by the previous government in the year 2000 which has created, I think — at least all the witnesses have basically said that; I can't recall any that haven't — but they've all basically said this change has caused some difficulty around the abandonment issue.

Mr. Aitken: — Right.

Mr. LeClerc: — And that up to that point, even to the last witness before lunch break — and he was part of the tripartite that worked on the legislation in '92 — that this legislation in the year 2000, which I'm presuming Bill 80 is going to address some of that, is the piece that has caused the problems around this abandonment issue and that they've changed, I guess, putting people in it that weren't in it before. There wasn't grandfathered and now it gives all of this, which I guess gives rise to trying to have a remedy to that in the long list of contractors and companies that are now worried to either come into the province or being put out of business because of that change of legislation in the year 2000.

And I'm trying to understand this abandonment issue and it being one of fairness. And I thought the three-year piece would have therefore been fair — that a union would make sure that,

as you have said, that you're active and you're working on what you're constructing, and that there's no time lapse that can be considered abandonment — and that previous to the legislation in the year 2000, this was not an issue that anybody had to deal with.

Mr. Aitken: — Okay. I will admit, Mr. LeClerc, that when I was watching you engage with Mr. Ottenson, I tried to quickly scramble on my computer and find those legislative changes in the history. I was unable to do so.

But it strikes me that if that's the problem, the changes in 2000, well there's our quick fix, right? We don't need to change everything. Roll it back. Roll those 2000 changes back. If we're worried about the abandonment issue and if that's really what the issue is — and I understand the problems with the Saunders case — if that's the issue, let's deal with the issue. Don't change everything.

We're concerned about — and I'm sorry to veer off — but we're concerned that we're taking an industry that's been so stable and everyone has said . . . We put the stats in our submissions as well — 17 years without work stoppages. We're concerned that taking a stable industry that's operated well and making a lot of changes for one small item is going to have horrible unintended consequences.

We can all speculate what they are, but that's all it is, is speculation. And I heard the comments earlier about, if it's not broke, don't fix it, and contrary arguments to that. But if it is that abandonment piece that's a problem, and if this committee finds that those 2000 changes — the changes in the year 2000 — are what led us to problems like the Saunders case, then let's deal with the 2000 changes, not with the whole piece of legislation.

And on abandonment, I don't know, Mr. LeClerc, that there's a time frame year-wise. And I understand it's easier and it's clearer if you have that. But I think Mr. Ottenson referred you back to the '80s, and hopefully we don't experience the kind of work slowdown and reduction that we had in any of those eras previously. But you could realistically have a situation where a contractor goes and operates only as an individual — doesn't need any workers — and pursuant to our collective agreement wouldn't have to remit and could be doing that for four years, then gets a job where he needs four workers.

That's the kind of harm that I think that an abandonment clause should ensure that it protects against, as it should, a contractor who is on purpose going underground. We have trades that can be done out of the back of your car. A tile setter can operate out of the trunk of a car. In the basement of a building like this for example, we would never see them. So for Mr. Medernach to get out on to a job and actually monitor, it's very difficult. It's not like they're putting up pieces of steel.

So that's our only concern on the abandonment, and I don't know if I answered your question or I made it more difficult. I'm sorry.

Mr. LeClerc: — Yes, you did. No, you actually clarified it. Thank you very much for the clarity of your report and the clarity of your answers.

Mr. Aitken: — Thank you.

Mr. LeClerc: — Thank you.

The Chair: — Thank you, Mr. LeClerc. Keep in mind we have less than five minutes before our total allotted time and the next presenter. We have three speakers to go. Mr. Iwanchuk.

Mr. Iwanchuk: — Just one question. You talked about the issues where people have raised Saskatchewan, the only province that dictates employer and employee designations or organizations. And I just briefly was going through your written submission and you list a number of jurisdictions where that occurs, and where you take issue with the backgrounder, and I was wondering if you could just expand on that for us.

Mr. Aitken: — We find the argument rather strange. We find the stated concerns, I don't know, alarmist. We've got designation systems in all of those provinces that I listed. Am I familiar with all of them intimately? No. I've practised law in Ontario. I've appeared before boards in Ontario, Alberta, British Columbia, Newfoundland, Nova Scotia, and they have the designation systems. Construction hasn't grounded to a halt. Employers are not afraid to come into the provinces. That's not what's stopping people from building. It's not legislation.

In fact the designations, and again I would have to refer you back to the Crispo report, Crispo and Goldenberg or Don Franks in Ontario. They've done all of these extensive studies to find out ways in which they can manage the construction industry so that it's not in a state of turmoil — so we don't have leapfrogging; so we don't have the pipefitters are out on strike from March till April and the ironworkers are on strike from June till July and the bricklayers are on strike from August till September.

What they've done is they've come up with these provincial bargaining schemes with designated employee bargaining agencies and designated employer bargaining agencies, regardless of the names they use. What they wanted to do and what, in my respectful view, they have done, is stabilized an industry that wasn't so stable at one time. And now clients know collective agreements are up on a certain date. In the province of Saskatchewan, not only do they know the date they're up; they know they're going to be ratified because they have been for the last five times through. That's the stability that was lacking in the industry in the '60s and partway through the '70s and, depending on the province, that was the harm and the ills that were spoken of in the Goldenberg, Crispo reports, in the Don Franks reports, and by some of the authors that I mentioned to you earlier.

So we've got these designation systems as an effective legislative mechanism to ensure stability in an industry that's critical to most communities.

Mr. Iwanchuk: — Thank you very much.

The Chair: — Thank you, Mr. Iwanchuk. Ms. Schriemer.

Ms. Schriemer: — Hi. Thank you again for your report. The issue seems to be, with what you're telling us, is that we're short workers. We're short tradespeople. Do you have a

solution as to how we could overcome that?

Mr. Aitken: — Do we have the magic bullet right now? Absolutely not. We've tried a number of things and we continue to try. We're reaching out to under-represented groups in the construction industry, whether that be First Nations groups where we've run courses for, whether that's women that we've encouraged to come into the trades. There are other cultural groups and new immigrants that don't immediately come or don't immediately think about the trades as an answer. We're working in the schools.

In fact, tradespeople are sometimes our own worst enemy. We all want our children to do better than we did, right? So do I want my son to be an electrician? No, I would like him to go to university and do this. Do I want my daughter to be a tile setter? No, I'd like her to be a doctor. And so as a society we've sort of lessened the esteem of the trades. We're trying to work with the school boards and teachers to try and bring the esteem back of being a tradesperson.

We've got tradespeople that are making a lot of money and are very rewarded at the end of the day. As I said, I was an electrician by trade and sometimes that's difficult. You see the lights operate, but what have I done? Our trade, the ones that Clarence represents, we do the brick and the tile and the stone. We built this building. So those workers get to walk back and say, look what I've done. So there's this sense of pride in it. So we're trying to put that to the forefront so we can attract people again to the trades, and I know the other trades are doing the same thing.

So no, I don't have the absolute solution, Ms. Schriemer, but we're trying. And we're trying everything we can to pass this trade — and I'm sure the other trades are doing so as well — down to future generations and, more importantly, to people that haven't had access to it before.

Ms. Schriemer: — Thank you.

[13:45]

The Chair: — One final question from Ms. Eagles.

Ms. Eagles: — Thank you, and thank you very much for your presentation. I was just wondering how many bricklayers in Saskatchewan, what percentage, is unionized.

Mr. Medernach: — I would say, we've got the helpers in there also, so we're looking at roughly 200 members. I would say the industry, we're probably 80 per cent unionized.

Ms. Eagles: — I'm sorry.

Mr. Medernach: — 80 per cent, I would say, unionized.

Ms. Eagles: — Okay.

Mr. Medernach: — Our industrial side is probably 100 per cent. Commercial is next highest. In residential we've got a few smaller contractors who hire a few people.

And I'll say something: the majority of my contractors —

voluntary recognition. When I was out organizing, I talked to the workers. The workers' position was that if the employer is willing to be union, we have no issue with it. Most of them were former members of our local which fell apart during the '80s. So like I said, it's our industry. I don't know where there'd be a contractor, coming from the mason industry, to saying they want change.

Ms. Eagles: — And, Mr. Aitken, earlier in your report, you were discussing, you said you had legal or, pardon me, paperwork to support some legal issues that were happening I think with CEP?

Mr. Aitken: — That's correct.

Ms. Eagles: — Yes. And that's actual evidence. It's not assumption?

Mr. Aitken: — Absolutely, and we will, I'll . . .

Ms. Eagles: — Would you provide it?

Mr. Aitken: — I'll provide it. And do I provide it through Ms. Perras again?

Ms. Eagles: — Yes, please.

Mr. Aitken: — Okay. Yes, we'll provide that. We'd be happy to do so.

Ms. Eagles: — Thank you.

The Chair: — Thank you, Ms. Eagles, and thank you very much, gentlemen, Mr. Aitken and Mr. Medernach, for your very detailed presentation and your very concise answers. And on behalf of the committee, thank you very much.

Mr. Aitken: — Thank you for your time.

The Chair: — We will facilitate a quick change and get back on schedule. Our next presenters will be the Saskatchewan Business Council. We'll go without recess. And just to facilitate additional time for, equal time for all parties, we may just go a little bit into our recess time after this next presenter and convene after that.

Presenter: Saskatchewan Business Council

The Chair: — I'd like to officially welcome the Saskatchewan Business Council. And for the purposes of Hansard and committee knowledge, if you could just introduce yourselves, please.

Mr. Fougere: — Michael Fougere, president of the Saskatchewan Construction Association and member of the committee.

Ms. Braun-Pollon: — Marilyn Braun-Pollon, vice-president for Saskatchewan and agribusiness for the Canadian Federation of Independent Business — CFIB, Co-Chair of the Saskatchewan Business Council.

Mr. Hopkins: — John Hopkins, CEO [chief executive officer]

of the Regina & District Chamber of Commerce, member of the committee.

Mr. Thomarar: — Alan Thomarar, CEO, Canadian Home Builders' Association, Saskatchewan, HR [human resources] Chair, Saskatchewan Chamber of Commerce, and member of the committee.

The Chair: — Thank you very much. If you'd just do your presentation.

Ms. Braun-Pollon: — Well on behalf of the Saskatchewan Business Council, we would like to thank you for allowing the council to appear before the Standing Committee on Human Services which is reviewing Bill 80, *The Construction Industry Labour Relations Amendment Act, 2009*. As way of background, the SBC [Saskatchewan Business Council] consists of 53 organizations across Saskatchewan. The SBC not only represents but also speaks on behalf of the majority of businesses across the province. And we do welcome the opportunity to present our views this afternoon on Bill 80.

It's also important to provide the standing committee some additional background surrounding the formation of the Saskatchewan Business Council. In December 2004, organizations representing the majority of Saskatchewan businesses joined together to form the Saskatchewan Business Council to publicly voice our serious concerns regarding the Saskatchewan government's proposed changes to labour legislation and our strong opposition to the government's intention to revive the government-directed hours for part-time work.

For months, the SBC aggressively lobbied the provincial government and told the government they were on the wrong side of the issue. We were therefore pleased, the council was pleased, when on February 18, 2005 the provincial government withdrew the draft regulations and repealed the unproclaimed additional hours section of *The Labour Standards Act*.

We were also pleased the government listened to the real concerns that were raised over those various months by business owners, by part-time employees, university students, urban and rural municipal leaders, and various regional economic development authorities across the province. The government did the right thing by repealing that legislation. The business council was then able to focus its energies on policies that make Saskatchewan a job-friendly province.

The business council thanks the Government of Saskatchewan for introducing Bill 80 and for having the political courage to bring about balance and fairness in construction labour relations. The council believes that Saskatchewan must step forward and pass Bill 80, which will lead to expanded capacity of the construction industry to meet the significant infrastructure needs of private sector investment in our province as we seek to maintain this economic momentum we've seen. Providing workers with greater choice in which union represents them is a sound and reasonable measure that will receive widespread support in our province.

Equally important to the construction industry is the key provision of recognizing the principle of abandonment. Putting

in place a process whereby the Labour Relations Board can revoke an old, inactive union certification agreement on the basis of abandonment will remove the uncertainty and lead to greater confidence within the construction industry.

The Merit Contractors Association of Saskatchewan, also a member of the SBC, put it best:

What the construction industry needs today and what the province needs today are new rules for a new Saskatchewan economy. The Bill 80 initiative has the capacity to attract new workers, new residents, new projects, and new economic activity to Saskatchewan. Accomplishing that will go a considerable distance in avoiding the economic downturn that is occurring almost everywhere else in the world today.

Mr. Fougere: — Now we'll continue on with the presentation, Mr. Chair. The SBC has reviewed the legislation, and we fully support Bill 80.

The legislation will provide greater choice for employees in selecting the union that represents them. At its heart, Bill 80 is about greater choice and about democracy. The SBC strongly supports the principle that employees and not the government should have the right to select who represents them.

The SBC also supports the abandonment provisions contained in Bill 80. We believe these changes are long overdue. It is inherently unfair and undemocratic for any union to abandon its responsibilities under a collective agreement and not in any way represent the workers for years, only to reactivate the old certification order years later. This denies the employees the democratic choice of who should represent them. Our membership notes that other provinces recognize the concept of abandonment either in legislation or in policies and practices. We note Saskatchewan is behind in this area, and we welcome the updating and modernization of this key concept.

The SBC also supports the key provisions in the Bill that will allow employees to decide which union can represent them. Under the terms of the Bill, trade unions will be allowed to organize a company on a single-trade or single-craft basis, a multi-craft basis, or an all-employee basis. We believe this allows for greater freedom of choice should employees want to explore other opportunities. There's nothing in the Bill that compels employees to change existing arrangements.

This proposed new arrangement removes a monopoly of the building trades. The SBC strongly favours competition, and we believe our building trades have nothing to fear from competition. In every case, competition brings out the best in all of us and is the foundation of economic excellence. The SBC strongly believes Bill 80 will help set the stage for greater industry capacity within the construction industry to meet the ongoing infrastructure needs of our province. As we know, the provincial government has invested \$1.5 billion this year with a \$500 million booster shot to help our economy weather the economic turmoil. The immediate infusion of capital will help speed up infrastructure projects across the province. Bill 80 will attract new companies and employees to help meet the challenge.

The SBC believes that all sides win in this legislation. Our economy will continue to lead the nation. Residents will win because more jobs will need to be filled. More investment will flow into the province. Employees in the construction trades will have greater choice who represents them, and employers will have greater choice of who represents them.

While the SBC is pleased with Bill 80 and believes the changes are long overdue, the government should not lose sight of the fact that much more needs to be done to build upon the economic momentum that we are experiencing. We refer to changes in the Workers' Compensation Board, occupational health and safety, labour standards, and changes to *The Trade Union Act*. The SBC will continue to press for changes that will allow our province to remain competitive. The SBC urges the government to pass Bill 80 in its present form without amendment and move forward with changes to modernize other key pieces of legislation that support a strong growth agenda.

Again thank you for introducing Bill 80. The SBC looks forward to continuing to discuss how we can create greater opportunities for workers in our province. As always, the SBC is ready to provide its perspective, advice, support as we work to grow Saskatchewan.

And in the few minutes I still have — I think I'm on time for presentation — I want to talk about some of the misinformation or misconceptions that we have heard over the last couple of days. One of them is on the concept of abandonment. And I think it's important to understand there's been some misapplication of the intent of that as we understand it.

We're speaking of some specific cases and we heard about Saunders and I raised that yesterday with you. That was a very real case where a company is in serious difficulties because of having been abandoned for several years by the union only to have a reapplication to go back. I don't think anybody's talking about, if you look back 25 years ago, in three of those years there was no representation by the union, that automatically there would be decertification.

The process is much more fair and reasonable as we understand it. It's an application based to the Labour Relations Board. Both the union and the employees have a right to make representations to discuss that before any of the decision is made. This is a fair and reasonable, transparent process, and we shouldn't get alarmed to talk about the most extreme case to make a point that isn't really valid to begin with.

We've heard comments about the deskilling of the industry and this is particularly for those who favour by craft unions and that of course is the building trades. Nothing was presented that I've heard so far that indicates that there is deskilling. You must have your journeyperson papers or your apprenticeship papers to be on the work site to do the work. Whether you're a multi-craft person — if you're a welder and a carpenter on site — when you're looking at a wall-to-wall union, you would take advantage of the skills of the people that are there.

I think this is a great way to empower employees in the work site. In no way have I heard anything in any province that uses a wall-to-wall union that has a problem with a deskilling of the industry. This is, I think, fearmongering and trying to scare

people.

The notion of it's not broke, don't fix it — fair comment. But I think what we've done here is we're trying to improve the system, make it better. To improve it from what it was in 2001, what it was 1987; where the economy was different, where the dynamics between labour and business were different. We have a chronic skill shortage and we must find a way to resolve it. By building capacity, by building opportunities for companies to come in, and workers to enter the industry, we build that capacity.

Is this a silver bullet? No, it's not, but it certainly is a way to move forward. I haven't heard of any other major changes that could begin to address that. Both the opposition when they were in government and this current government have invested heavily in the apprenticeship system, as I mentioned yesterday. That's one way to do it. This is one tool in the tool box to frame it, to open it up, make it more fair, and provide for opportunities.

Many discussions on wages and benefits and training and safety have all indicated in varied degrees that if we change this to wall-to-wall, we're going to lose — wages will go down, benefits go down, training's down, safety down. No evidence whatsoever, no evidence would you find that in British Columbia or Alberta or Ontario where this is done. I haven't heard anything that gives me evidence, and I would urge you to keep it in perspective, heard nothing whatsoever.

I did tell you, and I can provide you information, that the wages of those who were not in union versus union are extremely competitive. In a marketplace where there is a lack of skilled trades, you are going to have wages go up. And they are going up substantially — both union and non-union. So we have to be understanding and realistic on this.

The supposition on some of the comments made — and I'm not going to attribute this to anybody, just what I'm hearing in total — is that somehow this is anti-union legislation. I represent, within my industry with SCA [Saskatchewan Construction Association], union and non-union, and this is my position and the position of this commission is that we support this legislative change. It is not anti-union. It is a change of how business is done over time certainly, but nothing in this has anything to do with curbing the rights to organize and to be certified in the union. That's important to know that.

I heard about loss of certifications should these changes come forward. I fail to see how that could be the case. The SBC has tried to think this through to how could we come to a conclusion that if a worker, a unionized worker, was in this new system of wall-to-wall, they'd lose their certification. I fail to see that. Again no evidence given other than just a statement made and hoping that it sticks. That's not the case whatsoever.

And there's talk of anybody can come into the province. Well if that was the case, we wouldn't have the CEP issuing a press release saying we're glad that we can come in; or CLAC, we're glad that we can come in. This is a closed shop.

This is a monopoly — virtually a monopoly — as it stands. Does it work? Yes, it does. Does it meet our capacity to grow

the economy? We talked about the government infrastructure that needs to be done, but what about the private sector investments coming in, the billions of dollars we're hearing? This isn't going to answer the question.

This change is incremental. It is not revolutionary; it's evolutionary. And if we keep it in perspective and work together, this will work. But not overreact to, it's things like, well you know, your wages are going to go down and loss of certification, and it's anti-union legislation, and it will deskill the industry. These are hyperbole statements, and there's no proof in any fact I've seen.

So I urge all members to consider what's being said and the evidence given on those statements, because I haven't heard anything yet, and I don't think you have either.

That's our main presentation, and certainly we're happy to answer questions that you may have.

[14:00]

The Chair: — Thank you very much. We'll commence with questions. Mr. LeClerc.

Mr. LeClerc: — Thank you. Thank you for your presentation. I've heard over the last couple of days — and I need some clarification and I will ask this question to others — it has been stated that this legislation gives the decided disadvantage to the 17 labour unions that are currently in place by putting them under some form of regulations with new unions coming in that gives them an advantage over them. And it's almost like the 17 will be under old and the new ones will be under new. I'm trying to understand how that would apply. Would this not be the same labour laws and affect and practices for all of the unions?

Mr. Fougere: — I think you're right in that. Your answer's correct. I don't think there's anybody that has a step up on anyone else. What we're going to see — my perspective — is really no change to begin with because there's nothing in the Act that compels a change of any relationship between workers and contracts at all. This is a choice that workers would make. But those new companies that may, those new unions that may come in, such as CEP or CLAC, will have the same basis upon which to enter the province as existing building trades. It's a choice of workers of what they want to do. That's what drives the change here. If any change at all, the workers make the change.

Mr. LeClerc: — Ms. Schriemer asked a question of the previous presenter. We have a severe labour shortage. We can't get all the work done that we need done. People are not coming into the province to join these other labour unions, otherwise we wouldn't have a labour skill shortage. Since we're firing on all cylinders and the provinces beside are not, I would presume that people would flood our borders to join in, and yet they're not.

And when Ms. Schriemer said, well how do we deal with this, how could you tell us how to deal with it, he basically said he was attempting to recruit. And it sounded like a great union, and he's doing all the right things for apprentices and bringing people in and trying to bring women to the workplace and

immigrants.

How will this Bill 80, in your opinion, help us deal with the problems that we have as a province with our skill shortage, grow our population, and deal with the infrastructure money that we've put into place that we can't spend?

Mr. Fougere: — I'll give you some answers and the others can jump in, of course, as I go on. But I want to just frame the answer in terms of the size of the lack of skilled trades we have here. And the Construction Sector Council and the Labour Market Information Committee, which I Co-Chair, we've just put a report out last week that says we need 4,300 workers just to sustain the momentum of growth in our industry, and we need an additional 4,400 over the next few years for retiring workers. So we have a problem today and a problem tomorrow.

The intent of the legislative changes here are to bring in workers, both union and non-union, to attract them to the province. To build a capacity, as simple as that.

There are contractors, and you'll hear them this afternoon. You've heard them yesterday; you'll hear them in your next meeting. They will talk about, we can't come into the province because our workers through their own, democratic right, have chosen another union to work in. This could be CEP. It could be CLAC. They cannot come in the province.

So it's just a logical situation where if the contractor comes in to bid work and wins, he brings the workers with him. That builds capacity. Those companies in here will hire more Saskatchewan residents, which is what we want. Any discussion of these companies coming in and having workers that don't live in the province and leave and they buy their groceries and buy their cars in other provinces, I think is unfair. And I'm not sure it's clear in the future that it would ever happen in any case.

So you're bringing more companies in from other provinces. They're bringing in their workers who, in the case of CLAC, are Saskatchewan residents coming back to work here. And you're bringing in other companies that will come in to hire Saskatchewan residents to work.

Our industry does much the same as the last delegation talked about as well. We do a lot of promoting of the trades. And I know the home builders does the same thing on their side to make building in the trades an attractive career choice, not a second choice or last choice for kids coming out of high school.

We work very extensively with First Nations Aboriginal people to bring them into our trades. We work with the women to bring them into the trades as well. We do all those things. But there's no magic bullet here. Anybody who can come in here and say I have the answer probably is being a bit disingenuous. But we could look at tools to try to frame the discussion in the future, to try to lay the groundwork for something different.

Is the system working today? Yes, it's working. But the engine is not firing on all cylinders. It still isn't. It's just a good six cylinder, but we need an eight cylinder to move forward.

Mr. LeClerc: — My final question. Everybody on both sides of

this issue who have made presentations have talked about balance and fairness: you, yourself, in your presentation; others have done that. The one side says that Bill 80 is unbalanced and unfair. And the people that are supporting Bill 80 say that it is balanced and unfair.

And it seems to me that people keep pointing at CLAC, the Christian union, in their practice of wall-to-wall as somehow being unfair and unbalanced because they have a whole bunch of people that join their union and find work and get paid. And yet I haven't heard any evidence to date from anybody, quite frankly, that CLAC is a bad union that underpays its people, has a bad safety record. And so it seems to be centred around the fact of CLAC. Now I'm actually looking for an answer for this, for somebody to tell me that this is a bad union and ought not to be allowed in this province and why the thousands or 26,000 people that join it in the other province don't leave that union and go to another one.

So we have one side saying it's balanced and fair of allowing our province to have other unions come in, and then we have a bunch of people saying it's unbalanced and unfair to allow them to come in. Could you give your point of view on that for me?

Mr. Fougere: — Certainly. Firstly I don't think you're going to find anybody, certainly no one I've talked to is going to say that CLAC or CEP or the building trades are bad unions. They do the best they can to represent their workers. And everyone wants that. There's no one here who is out to exploit workers. So I've found no evidence in any other union I've talked to, any other province I've talked to, that indicates that CLAC is suddenly a bad union or something's wrong.

I'd suggest, though, that this might be a kernel of what's going on here. The building trades organize by craft, and CLAC and CEP does not do that. That is a different philosophy of how to organize a workplace. We're suggesting that there's other ways to do this. Are they better? Their experiences in British Columbia, Alberta, in Ontario seem to be pretty good. I don't see any inherent difficulties. There's no threat in safety. I challenge anybody to show that they're less safe, that the workers are less trained, less capable of doing the work. It's a different type of organization. That's the first issue.

The second issue is we have the government dictating which union will represent which worker. This is effectively, I would call it, a monopoly. And when you lose a monopoly, there's some difficulties there. You lose your precedents. Those might be part of the dynamics of the reaction for this.

But do I know if CLAC is a difficult or bad union? Not the evidence I've seen — quite the contrary, just different.

Mr. LeClerc: — Thank you for your clarity.

The Chair: — Thank you, Mr. LeClerc. Mr. Iwanchuk.

Mr. Iwanchuk: — Yes. Mr. Fougere, just on your last statement, I mean, because I'm confused here, just from our previous presenter we had, and I asked the question to find out because we keep talking about this freedom of choice and yet . . . And we'll be hearing, I guess, getting more information on this, but there are seven other jurisdictions where the LRB

[Labour Relations Board] designates employers and that. So this is quite bothersome that this freedom of choice is coming up. But my question was about this, because you've used two things — natural evolution and freedom of choice. But I want to introduce a couple of other words: stability and unintended consequences because I think we've heard about some of these.

Let me just take you through a bit of history here, because I have a report here, October 4, 1985, Hornung, Sherstobitoff, and Seiferling commissioned by the Devine government. And in that, the repeal, I'd like to just read from that:

... the repeal of the CILRA, unionized contractors and unions were left to negotiate in the same manner as existed prior to its enactment in 1979.

I think we've heard the kind of troubles we had before then. Also there was a section in here, and this is interesting because:

The Labour Relations Board has interpreted Section 4(c) of the repeal legislation to mean that the rates of pay and other conditions of employment in the 1982 contracts would continue until new or revised contracts are concluded.

So we had a repeal. We had left. So what happened?

Consequently unionized contractors, unable to terminate their 1982 agreements, began bidding projects through "spin-off" (double breasted) companies in an effort to be competitive and free themselves from their obligations under the old collective agreements.

As a result, the unionized construction industry in this Province is in very serious difficulty and disarray. Because of market conditions, and owner demands a greater proportion of construction work is being done "Non Union" than ever before. Figures provided to us by the contractors showed that the unionized segment of the industry performed approximately 77% of the work in 1980. That proportion has decreased in 1984 to 3% and in 1985 to 14%.

Now under these banners of natural evolution and freedom of choice and the things that have been presented, I have to tell you I am — with some of the information that's being tossed about here, and I mean, we will have to as a committee do our due diligence and do the work — but I'm really concerned when I hear that somehow that this isn't freedom of choice, and I hear that in seven other provinces we have regulated that the LRB is doing this.

But I wonder if in a number of years we are going to be faced with this because the other issue in here — and it's not a question of unionized and choice — the other issue that is being brought forward here . . .

And I see a destabilizing thing happening here right now. I have to say in these presentations, we hear the unionized sector coming and the things that we're hearing and we hear the other side. And we have — people are saying, the message I'm hearing also — 17 years of stability. And I listen and I look at this. And I'm sure the best of intentions were meant when the

new regulations were passed. And I hope, I hope that we're not creating the same issue. And I would just wonder if you have any comments on that?

Mr. Fougere: — Well you made a lot of statements. Firstly, the economy in the construction industry was vastly different in the 1980s — '70s, '80s — than it is today. Very different. I would note that under the current legislation, as I understand it, you can't have a spinoff company created. So you can't do what you're talking about, double-breasting, that's not going to happen.

But on a more philosophical level, I'll make this one comment, that we shouldn't always assume that businesses always do the bad thing; they're always out to take advantage. I think that this industry understands it's competitive for workers. It is competitive in a tight market to find workers to come forward — very different than it was in the '70s, '80s, and '90s. No question about that.

I'm not going to speak to what happened in the reports you have. I've not read the reports, so I won't comment on the veracity of it. If it's what you said it was, I'll take that at face value.

But I will say that this clearly offers choice. How we can say it isn't, to me is a remarkable statement. When you can have a different kind of choice, wall-to-wall as opposed to with just the building trades, for me that clearly is a choice, an additional choice. It provides a different kind of organization that may be not favoured by you, but certainly it provides more companies coming in, more work to come in, and freedom to choose a different labour organization to represent someone. To me that's choice. To me that's obvious. I fail to see how it couldn't be choice.

I will not speak to how other provinces are organized. I'm talking about Bill 80, what that means, what it means today. And you can accept or not accept the fact that what this is doing is providing workers the choice to stay where they are, which is completely legitimate, or make a change if they so choose. I fail to see that to be detrimental to the industry.

Mr. Iwanchuk: — You're right, there's choice. My questions were — if we accept what you're saying, and I'm not going to argue with that point — what I'm also hearing is what I wanted to ask you. My question was that there are also issues coming forward of stability in the industry. So your choice, and saying that it's going to destabilize the industry of 17 years, that perhaps we're not listening to that.

And I raise this other issue as unintended consequences that we maybe don't see, that before we leap, we should know where we're getting to. And to really say as you did, that you know, we had the Progressive Contractors in here who said CLAC has 23,000 or was it 26 — I'm sorry, my notes — are not standing at the border to come in here. So we all agree that the problem is shortage.

And this is a proposed . . . And people are saying this is the silver bullet because what I'm hearing is this will do these things; and then no, it won't. But I think we have to also listen to everyone who comes and the other people who are coming

are talking about stability. They are talking . . .

Mr. Fougere: — Can I answer the question about stability because you've mentioned it a couple of times? That seems to be the root of your point, if I might.

Mr. Iwanchuk: — Well just a couple this time. But go ahead, sure.

Mr. Fougere: — But certainly on the issue of stability, I want to use an analogy of a car that's not firing on all cylinders. It runs well, but it could go better. Sure, there's not been a strike for . . . actually it's longer than 17, it's like 24 years.

[14:15]

Mr. Iwanchuk: — I think so too.

Mr. Fougere: — It's a lot longer. And the changes that were introduced in 2000, we're not sure why . . .

Mr. Iwanchuk: — I think there was one with 650 people . . .

Mr. Fougere: — There was no basic problems then when we made these changes that issued the problem of abandonment that came forward. So we're in a really murky world here of how things are going forward.

But certainly we don't see this as destabilizing. We see this as an opportunity because it's not dictatorial. It's not saying you must be organized wall to wall within the construction trades. Nothing is compelling the industry to convert to that. It's the choice of the workers.

And I think that's an important element here. It's not being foisted on anyone here. We're talking 20 per cent of the industry; we're not talking about the entire industry here. If it was the entire industry forced to be converted over, then you may have a point. But in actual fact, this is prescriptive. It could be used if the choice was made.

Mr. Iwanchuk: — Because I did read in there before 1979, when you go project by project or you allow separate certifications on job sites, you are going, you are recreating the very thing that started this whole process. And I think that you should be well aware of that when you say that — that you're going back, you're taking everything back to square one.

The reason these seven other places have, is they determined that this is the best way over years over experience to come, you know, to stability. Just because it's stable and you say it's not firing on all cylinders, I think there are a number of other things that come in.

The Chair: — Mr. LeClerc.

Mr. LeClerc: — I think the member is starting to get into a debate with the witness.

Mr. Fougere: — I don't mind.

Mr. LeClerc: — Well I do. I'd like him to stop the debate and just get to the question and . . .

Mr. Iwanchuk: — The question is we can say, and I think this is where people come say, if it ain't broken, don't fix it. And I mean, sometimes we all get on the wrong side of that one, but . . . because we want change. I am just cautioning because we are also hearing from the people who actually work in the industry that this is going to cause this. And we are simply ignoring that. And I, as a member of this committee, am very concerned about that because when I point out that this is what we had before 1979. So again, we'll be looking at all the material. But I would like your comments for the record on that.

Mr. Fougere: — We have within the industry the reverse where about 80 per cent of the industry was unionized, 20 per cent not unionized. And we had issues related to, okay, whipsawing, where there'd be a strike here, a strike there. And that had major instability for everyone. Totally different market than it is today. I think the understanding of both the union and non-union side — if I can use those terms — have grown and matured. Thus we've had tranquility here.

But together we need to address the fundamental issue of capacity of this province to grow. And you need to ask yourself the question — and we all do — how are we going to deal with the systemic problem of growth? We don't have the people living here. We have people coming back, yes we do, and our population's going up. Our economy is going forward irrespective of the international recession. And from my perspective, I want a high-level answer of how we can frame the discussion to build capacity. Then we drill down into particular issues and how we can deal with them.

But when I see an opportunity to provide for more contractors to come into this province . . . and they'll be union, and that's a good thing, because frankly as long as they're working and employed, I don't care whether they're union or non-union. We have companies coming in who will build capacity. Everyone wins. Is that not stability? I don't know; I think that's stability. In my view, that brings greater stability, greater growth, jobs. Our kids will have jobs. They won't leave the province any more. To me, that's stability. That's growth. That's very positive.

Ms. Braun-Pollon: — And if I can just add, with the shortage of qualified labour, we have it from our research that shows business owners are turning away opportunities because they can't fill the orders. They can't do the jobs. And I think we're at that point where if we aren't able to ramp up and welcome additional, the CEPs and the CLACs to Saskatchewan, we'll be in that same position of not being able to finish that school or not being able to finish that hospital, you know, those kinds of things.

And I also think you have to look at it from a competitive perspective. The more players you have in the market, the better bang for the buck, either taxpayer or on a private sector job. So when you look at that, more competition in the bidding of major projects, when you look at all of the things that have been thrown out with respect to the deskilling, the poor training, the lower wages, there is no evidence to show that that in fact happens. We haven't seen that to date.

And in fact, when you look at in the construction sector, the stats show very clearly that wages in fact have increased close

to 30 per cent in the last few years. And in a short labour market, when you're screaming for workers, they have the ability to walk across the street and find that employer that will provide the wages and the benefits and such. So it brings everyone up to a new level. And so many of these positions that have been put forward have been thrown out without any substantive evidence to show that in fact it will not be a race to the bottom.

Mr. Iwanchuk: — I won't continue. I will allow some of the other members to ask a question.

The Chair: — Thank you, Mr. Iwanchuk. Mr. Yates, you're next.

Mr. Yates: — Thank you very much, Mr. Chair. Well I think it is important in these hearings and during these submissions that we get to what the facts are. So I have some questions. There have been comments made several times, and when we ask then, like we asked, as an example, yesterday afternoon the Progressive Construction Association whether or not if they could come to this province today without CLAC. And yes they could. They could come. They could operate here. They could work here. They said their members could. When we asked if they came whether their workers would come with them from Alberta and other provinces, the answer was no. There aren't people waiting at the border. They would have to hire within the same labour market pool we have today.

So I hear all these statements, right? And we've had . . . But at the end of the day, we need to get down to what the facts are. I heard repeatedly about the Saunders case. So I got their Labour Relations Board cases, and I read them myself. And you know the representation and what's in the actual decisions, I find out at the end of the decision dated April 27, 2009, that it's stayed, indefinitely. And the record shows me clearly that there are criteria here to deal with abandonment in the province of Saskatchewan already.

Mr. Fougere: — Can I answer them?

Mr. Yates: — Sure.

Mr. Fougere: — Okay. You got two issues.

Mr. Yates: — But I need to get to the facts.

Mr. Fougere: — Sure. Well you got the facts. Whether we choose to accept them as a fact is your prerogative.

With respect to the Progressive Construction Association you called them, I mean I won't speak for what they said. But I know from what I'm hearing from CLAC and CEP is they can't be in the province. Now can their workers come in the province? Yes, they can if they join the building trades. Yes, that's fine, but not if they're part of CLAC or CEP. No, they can't operate here. That I think is factual.

And with respect to Saunders, I wouldn't use the word stayed. I think that there was a ruling to come down, but until that order has been decided, the order stands. And that's my understanding, and I'm not a lawyer. And, Mr. Yates, you may know more about this than I do, but until a final decision's

made by the Labour Relations Board, the original order is still there. And that is that they are unionized once again. They're paying back union dues for several years. That's the facts.

Now whether the current situation is going to change that, I don't know. There's some decision that will be made in the future, but at the moment, the original order's still there.

Mr. Yates: — Well, Mr. Chair, if I may, section 47 of the decision signed on April 27, 2009, says:

The Order made by the Board on October 31, 2008 [which is the original decision] staying the effect of the Board's decision on LRB File No. 019-05 is continued until further Order of this Board.

Mr. Fougere: — Right.

Mr. Yates: — So the board, if it never orders on it again, is stayed forever. And it may or may not ever make a decision.

Mr. Fougere: — But that's not what . . . [inaudible] . . . I don't read it that way. They're going to look at it in the future. So they're saying for the moment it's stayed, but they're going to rule in the future. That's the point I'm making. It's the very point I make, Mr. Yates.

Mr. Yates: — They may or may not. Again, it's an issue of . . .

Mr. Fougere: — Well the point is the uncertainty of it, in any case.

Mr. Yates: — There is potential uncertainty of it.

Mr. Fougere: — Clearly.

Mr. Yates: — But clearly, we're trying to change a law based on perhaps one very bad Labour Relations Board decision. If that's it, I think there's other ways to fix it, and I guess that's what some of the other presenters have indicated today. So my question really goes to this: I don't think there's anybody against, or everybody knows and understands the need for more skilled workers. We want to . . . I think everybody shares all the goals of building the province and expanding the economy and doing all the things that are good for the province.

But if I look at decisions and reports, looking after decisions are made, going back some 25, 30 years in the construction industry, this being one that did a review — it's Richard Hornung, Nick Sherstobitoff, Larry Seiferling, for the minister of Labour, October 4, 1985. It talks about significant unintended consequences to changes made that people thought would do what we are trying to do today, and I would say very significant unintended consequences. It indicates in this report that wages and benefits of employees went down.

Now, it was a different labour market environment. There's no doubt about that, and I think we all recognize that. And in a very tight labour market environment, in a growth environment, wages and benefits go up. They go up because of demand, not because of a desire of employers necessarily to be fair or unfair. I'm not going to say that they're either, I'm just saying that the market forces wages up because there is competition. If that

market were to change six months from now or a year from now, we could well be facing the same types of problems that were faced prior to 1984.

One of the things that we've had in the presentations is a real lack of fact. And I say that because when I asked many times for people to provide background documentation to statements that are made, there is always information. There is research that goes with that. That's very helpful to the committee in the sense that we can then go look and read for ourselves — as an example, the Saunders case — and read the problems that were made in that decision and so on and so forth.

So moving forward, I have concerns — and I think maybe many members of the committee have concerns — that over the last 30 years in the construction industry, we've made a number of decisions that were all intended, I think, to fix the problem and well intended, that may have had not the outcomes that were intended in the decisions. And we need to make sure as we move forward we don't create another unintended outcome.

Mr. Fougere: — I'd agree with you on that but I would say that in the past we've had labour legislation come in in the construction trades that tried to fix a problem that didn't exist, and that's a problem today. So when you speak of . . . You made many points that I can respond to just a few of them. We have not been asking that this government — they have responded — to make a change on abandonment based on one case. It is not just Saunders. And you heard from PCL that was here this morning, there were several other companies that are for varying reasons caught in the trap of this. That's a huge concern. So it's not just Saunders. Saunders is the most immediate one, the most that's before the board, that's still there.

You had talked about the lack of facts. I note that some delegations are asked to provide information, background information, and others are not. And that seems to me that perhaps if it doesn't the square the circle with a question then you asking, give me proof with what you're saying. I say that anybody who comes as a delegation, what they say I believe them at face value what they're saying. I can't provide the research assistance that your office can do and that the Legislative Assembly can provide for you. A call to the Workers' Compensation Board, a call over to Labour Relations Board can provide that for you probably quicker than I can do it.

Will I provide you information on how I got to where I got to? Absolutely, if that compelling question is asked to every other delegation is asked to then yes, fair is fair. But to portray what we say is not factual because you have to ask for the information is disingenuous to every other delegation that comes in here that has a position that that may be different or combatable. I didn't hear that question asked to the Building Trades Council as an example. That's all I'm saying, to be fair to everybody.

Mr. Yates: — Thank you very much. And I was not intending to in any way question that what you're telling isn't there but the more detail we have, the more we can actually then assess all the impacts of what may happen so we don't make . . .

Mr. Fougere: — I'm more than happy to provide . . .

Mr. Yates: — Legislators made the mistakes in various years with legislation. If there were mistakes made, the more we have to avoid making potential mistakes helps us craft the absolute best solutions to problems.

Mr. Fougere: — Sure, and I agree. And in the spirit of co-operation, I'm more than happy to provide that information as long as that caveat, that issue is told to everyone, that's fine.

Mr. Yates: — And I've tried to, wherever there's been something I think that needs to be clarified or we need to understand why. Like it's extremely helpful to have these labour relations cases to read.

Mr. Fougere: — Yes, I agree, totally agreed.

Mr. Yates: — Thank you very much. Those are my questions.

The Chair: — Thank you, Mr. Yates. It was also brought to my attention possibly the Saunders case is on hold right now pending the outcome of this legislation. So that might be what we're up against there. I recognize Ms. Junor.

[14:30]

Ms. Junor: — I'll try to be quick because I know our time is running out. Construction isn't my area of expertise, but when I'm listening to the presentations from all sides and all interested parties, I had distilled it into one issue. And that is that this legislation will allow a certain representative to come to this province and represent workers. That's either CLAC or CEP or both. It does not address anything to do with workers because workers are now free to come and work here if they choose.

And my experience in the past has been with craft unions. As past president of SUN [Saskatchewan Union of Nurses], the nurses' union, we of course in the health sector dealt with Dorsey, the Dorsey report, back several years ago when there was instability in the health sector. Dorsey was brought in to decide which unions would represent which workers and where. And so when I hear the conversation about choice, I find it a bit of a red herring since I lived through the Dorsey. I was president at the time. I lived through all of that. And the purpose of Dorsey was to bring stability into the health sector and has done so.

So when I hear now that we're looking at taking away the ability of an employer to represent, like for SUN to be represented in every workplace in the province and SAHO [Saskatchewan Association of Health Organizations] to be the bargaining agent, it raises in my mind a question of, are they next? Are we looking at taking on a different . . . Because we're talking choice and we're making this a big issue about democracy, that is clearly . . . The SMA [Saskatchewan Medical Association] deals with doctors and has one representative agent. SAHO deals with the nurses and all other health sector . . .

A Member: — Teachers.

Ms. Junor: — Teachers. So there's whole different sectors of the province that this does not apply to, your arguments don't apply to, because they've lived with this for a long time. So my question is, how come you think that this is different in your case?

Mr. Fougere: — Well because the government's made it different. The government's decided, much the same as — and I'm not an expert on Dorsey, but Dorsey's trying to do the same kind of thing. They're saying, you're going to have SUN do this, and this is going to be the organization you're going to have. This is how you're going to be organized to negotiate both on the employer side, employee side. The same psychology. The government puts a framework together and says, this is who's going to represent you. So you have SUN and you also have, I think, CUPE [Canadian Union of Public Employees] as well is part of it.

Ms. Junor: — CUPE, SEIU [Service Employees International Union], and health sciences, yes.

Mr. Fougere: — There was comments yesterday that let's be like the nurses, just have . . . What's wrong? Works for the nurses. Why not for construction? Well you have two at least. I know that SUN is a major one.

But again, on the Dorsey report, its translation to legislation and the reformation of labour relations with nurses is very much the government saying, this is the framework we're going to do it on. And we philosophically say that is incorrect. The government does not need to make the choice of who represents employees. Let the employees make that choice. This is a fundamental principle of the right of the employee to make the decision. If they choose the current arrangements, we should fully support that. If they choose another one, that's fine.

I don't think it's one issue. It could be, and I'm not an expert in labour legislation by any means, but for me it's not just about CLAC or CEP. It's about building capacity — one element, one tool in the tool box to build that up. It's also about a conflict of whether you think you should be craft specific or wall to wall.

And I'd urge you to consider, to look closely at the evidence of Alberta and British Columbia and Ontario to look at how does that work and what does it do for the workers. What does that mean for them? Are they being somehow disenfranchised or are they somehow seeing their rights or their wages rolled back somehow? That conversation needs to take place. But to presuppose because it's different it's bad, I think hurts our province. Because we are a land of opportunities here.

Ms. Junor: — Well I think we'll have to agree to disagree. Your analogy about wall-to-wall . . . If I look at a hospital, we've got doctors represented by someone, the support staff represented by someone, the technical staff represented by someone, the nurses represented by someone. There is no wall-to-wall in that industry. So I fail to see the argument to have it in this industry which does have specific crafts attached to the industry as I understand it. And I must say this isn't my . . .

Mr. Fougere: — Well you just said you had CUPE also represented as well. So they're there as well. They're another

union.

Ms. Junor: — I said CUPE represents . . . Another union represents support services which is CUPE in some places, SEIU in others, SGEU [Saskatchewan Government and General Employees' Union] in others, and HSA [Health Sciences Association], health sciences, represents technical workers for the most part. What my point was, that to say wall-to-wall represents workers' interests best is, in your words, disingenuous.

Mr. Fougere: — No, I didn't say they were best. I said it was an opportunity to be explored and that isn't . . . because it is not being forced on them.

Ms. Junor: — I think probably we should get over this now, because now we are getting to arguing. So I'll end my questions, and thank you very much.

Mr. Fougere: — A pleasure.

The Chair: — Thank you very much to the Saskatchewan Business Council for their presentation. We've run a little bit overtime, but some good questions and answers. We will recess for 10 minutes and be back at 2:45.

[The committee recessed for a period of time.]

[14:45]

Presenter: Ledcor CMI Ltd.

The Chair: — We'll welcome our next presenter, Ledcor CMI Ltd.. I'll just ask the presenter to introduce himself for the purposes of committee knowledge and of Hansard.

Mr. Brown: — Okay. Thank you, Mr. Chair, and thank you, committee, for giving me a chance to present our company's perspective on Bill 80.

I've been with Ledcor in various senior capacities since 1989. I'm also a past Chair of the Western Canada Roadbuilders and the Canadian Construction Association. And I'll admit to being an interloper from Alberta. But if there's any saving grace, I've been a Rider fan for 50 years and I was at the game last night. And pretty tough to be a fan last night, so hopefully things will improve from there.

Just to tell you a little something about our company, the Ledcor group of companies. We're the second largest construction company in Canada. We're a union company. We do an annual business volume of about \$3 billion. We have 14 offices across Canada and the States. We're hoping, if this legislation passes successfully, that our 15th can maybe be here in Saskatchewan.

We do virtually every type of construction except residential. We build buildings, pipelines, bridges, highways, industrial plants, hydro developments. We're active in the mining sector, the highway maintenance business. We employ up to 6,500 people at peak. Our company has an impeccable safety record. We're the only company to twice win the National Safety Award, and we've got a strong track record of Aboriginal

engagement and joint ventures and other collaborations with local contractors when we move into new areas.

We've wanted to be part of the construction industry here for a long time, but essentially have been prevented by the CLRA, and I've heard various other speakers address that. In our view, with the exception of Quebec which I don't view to be a particular model to emulate in construction labour legislation, that legislation is unique to Saskatchewan.

For 20 years now, all our hourly employees belong to CLAC, and CLAC — I don't know whether they've spoken to you yet or whether they're still about to make their presentation but — they've been active in Canada since the '50s. So no newcomer to the union movement.

The current legislation here provides, in our view, a monopoly to the international building trade unions. Employees who wish to be represented by a union must belong to that group of craft-based unions and cannot choose any other type of representation. At last count, of our 6,500 employees, almost 150 are Saskatchewan residents working for us in Alberta and BC, partially at least because they're not allowed to work for us with CLAC here at home. We believe it's in Saskatchewan's best interest to have an open and competitive construction industry like other provinces.

I'll tell you a bit about why we've had a successful partnership with CLAC over the past 20 years — really three key elements in our view. One is the wall-to-wall structure versus the strict craft line jurisdiction which has some, in our view, built-in inefficiencies. The old example, and maybe not necessarily a good one, where a bunch of labourers would sit around waiting for the electrician to come and screw in a light bulb — that may be a bit of an exaggeration, but there are lots of examples like that that occur within the traditional building trade environment.

The agreements, collective agreements we have with CLAC have no subcontracting clauses which require all our subcontractors to belong to CLAC. So it gives us, unlike the building trades which have those restrictions, we can choose any subcontractor we want and make sure we're getting the best performance, the best value, rather than have to choose strictly on the basis of union agreement.

I'll just talk a bit about the heavy oil exploration and development that's been happening in Fort McMurray. In the past, what I'll call the old days, those jobs primarily were almost the exclusive domain of the building trade unions. Five years ago, CLAC contractors were doing less than 10 per cent of that work in McMurray. And as our clients, the construction owners — the Shells, Suncors, Petro-Canada, Enbridge, those type of companies — became more concerned with construction cost and productivity issues, they realized the advantage of a different type of collective agreement structure.

And CLAC contractors are now doing almost 50 per cent of the work, of that type of work, in McMurray which I think certainly attests to our clients' satisfaction with those type of arrangements.

So I don't have a great lengthy presentation to make. What we want is an opportunity to build construction projects in

Saskatchewan, to come here and compete with and become part of the industry, become a contributing part of the construction industry both on the tax side and being involved in the associations and part of the provincial economy. We think we can offer a lot of value and efficiencies to our clients and that in turn will benefit the provincial economy as a whole.

So that's pretty much all I have to say. I'd welcome any questions.

The Chair: — Thank you very much, Mr. Brown. I'll open the floor to questions. Mr. LeClerc.

Mr. LeClerc: — Just very quickly, how many employees do you have, sir, your company?

Mr. Brown: — At peak, about 6,500. That's across Canada and the States — hourly, salaried — that's everybody.

Mr. LeClerc: — Now if you were to be allowed, with a change of legislation, to compete in our province, how many workers do you think that you would bring with you?

Mr. Brown: — I think a good number of our employees, especially the Saskatchewan residents, would be happy to come back and work in this province. Admittedly the wages might be slightly less, although I think that gap is narrowing all the time. But a lot of them would much prefer the enhanced lifestyle of being at or near home as opposed to being in McMurray. So I think a good number would come this way.

And I mean, to be honest, the construction industry is very much an up and down kind of thing, which everybody has spoken to. And when there's lots of work in Alberta and BC, people come from Atlantic Canada. I mean a good portion of the people in McMurray are from Newfoundland. And when it's busy elsewhere, those same people pack up their tools and go wherever the work is. And I think that's part of the whole internal agreement on trade and the labour mobility provisions in that that's trying to accommodate that.

But the basic answer to your question, I think a good number of our employees would be quite happy to come and work back here or here.

Mr. LeClerc: — Now you said you're the second largest construction firm in Canada.

Mr. Brown: — Yes.

Mr. LeClerc: — You've been in operation approximately 20 years?

Mr. Brown: — I've been with the company 20 years. The company is now 61 years old. We were founded in Alberta in 1947.

Mr. LeClerc: — Now that gives a great deal of experience over 61 years of dealing with the trades, dealing with unions, innovations. And you've been using primarily CLAC for 20 years?

Mr. Brown: — Exclusively CLAC. But in my previous,

pre-Ledcor life, I worked for a company that had collective agreements with the building trades, so I'm familiar with, you know, basically both sides of that equation.

Mr. LeClerc: — And so has there been, in terms of wages and in terms of safety, problems with CLAC?

Mr. Brown: — Certainly not that I'm aware of. I mean, our safety record and the safety record of the other CLAC contractors that I'm familiar with, that work in the industrial sector, are equal to or better than the building trades. And keep in mind that those owners have an almost fanatical preoccupation — and rightly so — with safety. So if you can't perform to an exceptionally high safety standard, you're not going to work for those kind of clients.

On the wages side, I mean we have lots of people that work for us that have been CLAC members for the last 20 years. And keep in mind if . . . I mean it is a competitive thing. CLAC's looking for workers; the building trades, the open shop, everybody is. So there tends to be a certain equality in that benefits compensation side of things. But in the union sector typically, and I can't speak to each province, but every two years there's a two-month window where the employees are quite welcome to choose alternate representation if they don't think they're getting a fair shake from CLAC or whoever it might be.

Mr. LeClerc: — So this Christian Labour Association, CLAC, you are, I would say, almost a broker in that you deal with a number of other clients. You're satisfied with CLAC. Have any of your clients expressed a dissatisfaction with CLAC, and have asked you to either find a new way to service them or have discontinued being a client?

Mr. Brown: — I don't think we've had that kind of experience. I think there was initially, especially in the heavy industrial sector, a little skepticism from the owner community that CLAC could perform, you know, in a similar fashion to the building trades that they'd worked with all those years. But I think for the most part that concern has been dispelled and I think our clients are . . . I mean we've got many, many major repeat clients, so I think that speaks to their level of satisfaction.

Mr. LeClerc: — You also spoke about a number of subcontractors that you hire that are from different unions that are from the single-trade silo type of union. Would you say that the wages comparably for those subcontractors are the same that CLAC is receiving or charging?

[15:00]

Mr. Brown: — That's a hard question to answer because it's very much region-specific, craft-specific, depends, you know, what the dynamics are in that particular labour market at the time. All I can say is from what I've seen there isn't a huge gap in the total compensation package between our agreements with CLAC and what some of our building trades competitors are paying their employees.

Mr. LeClerc: — Obviously then, and there's been a lot of talk about freedom of choice and democracy and opening up our province for freedom of choice and allowing different

employers like your organization to come into this province and allow the freedom of choice of the workers to belong to CLAC. And being that it's a Christian union, I would imagine some of them want to belong to it just because they're Christians and there's an ideology for them or partnership and the inference is that somehow this will limit choice.

If you actually come in, one side is saying that it will limit choice and the other side is saying that it will open up choice and democracy, but it's provided your company with a freedom of choice because you're using CLAC for one performance of your hourly workers and then you're also being able to use the subcontractors at the same time. What would happen . . . Well obviously because you can't come into the province with CLAC, you're not doing business in our province, so it's limited your freedom of choice to come and work in our province.

Mr. Brown: — And a case in point is we've done pipeline work and major, major pipeline projects in BC, Alberta, Manitoba, and we've never even been able to bid or offer our clients — who are national clients that build pipelines all across the country — the opportunity to even, you know, engage our services or see if we would be competitive.

Mr. LeClerc: — One last question. There's been a lot of talk about stability and there has been with prior governments really jiggling around with labour laws that have seemed to provide instability. In the '80s there was actually an 80/20 split, 80 unions and 20, and now we're at a 20/80 so it almost seemed to me that the tinkering has hurt the labour front, union front. But this issue of stability, that something that we may do in legislation may in the future bring the same type of instability that we saw some of the changes under previous governments bringing, have you had any form in the last 20 years of being the second largest company in Canada construction, using CLAC, have you had labour problems, instability problems? Has there been problems in dealing with subcontractors who refuse to work with your organization because of CLAC? Has there been labour unrest in this new formula of construction, wall-to-wall?

Mr. Brown: — Certainly not in my experience. And I mean if you want to look at a super-heated environment with the potential for instability, look at Fort McMurray over the past two or three years. And yet things have functioned there quite normally and the building trades and CLAC contractors have worked, not necessarily together on the same site, but side by side, and for the most part it's just enhanced the competition, added to the labour pool, and certainly not been, in my view, any source of instability.

Mr. LeClerc: — Thank you, sir, for your presentation and answering my questions.

The Chair: — Thank you, Mr. LeClerc. Mr. Iwanchuk.

Mr. Iwanchuk: — Just your last comment in terms of not coming to Saskatchewan and that you work with CLAC. So if I understand this, or maybe you can expand for me, because if you're a construction company there's nothing that prevents you from coming to Saskatchewan, but you are saying that you would bring CLAC and that's what prevents you?

Mr. Brown: — We're a union contractor and we operate with CLAC everywhere in Canada — Ontario, Manitoba, BC — everywhere. So I suppose you could make the case we could sign contracts with the building trades and have a totally different kind of labour environment for Saskatchewan, but clearly not in our corporate best interests or anything we want to do.

We've had a very good relationship with CLAC. It has been relatively non-adversarial. I mean, they stick up and speak up for their people and we have hard-nosed bargaining sessions just like I used to have with the building trades.

Mr. Iwanchuk: — Okay. Yes. I'm just trying to get an understanding. So if you would come here and bid on . . . You couldn't bring CLAC to Saskatchewan because you have to be certified under the Labour Relations Board here, so you couldn't . . . When you use that terminology, bring CLAC here, what do you mean by that?

Mr. Brown: — Our intention would be, I suspect . . . And I'm not a labour relations practitioner. I'm an operations guy essentially, but we would likely enter voluntary recognitions with CLAC, and establish unique-to-Saskatchewan collective agreements . . .

Mr. Iwanchuk: — But I just want to just stop you because it's the employees who have to certify, not the union here.

Mr. Brown: — Oh I mean, conditional upon employee . . .

Mr. Iwanchuk: — No, no, but that's not what you said. I'm sorry, I just . . . Okay, I think I understand now. So let me ask you another question. In Ontario, do you deal with, do you do work in Ontario?

Mr. Brown: — We do.

Mr. Iwanchuk: — Okay. Are there designated employer agents in Ontario?

Mr. Brown: — To be honest, I'm not overly familiar with the Ontario climate. In Ontario we do principally building construction work. In the Western provinces, we do more pipeline, heavy civil, industrial plant kind of work. So I don't know the answer to that particular question.

Mr. Iwanchuk: — Okay. Thank you very much.

The Chair: — Thank you, Mr. Iwanchuk. Ms. Schriemer.

Ms. Schriemer: — We talked about wages, and there was some issue about, well the testimony today suggested that wages would be lower with CLAC than with another union. Do you know what the wage disparity is, if any?

Mr. Brown: — Well as I say, that's a tough one because it very much depends on, you know, are you talking industrial or highway. I know in Alberta, for example, we are the only unionized contractor in both the road building and the road maintenance sector, and I know that our wages are higher than the open shop. There are no building trade union contractors in that field to compare with.

But from my understanding of our industrial and other agreements, you know, there's differences in what the pension entitlement might be or the base wage or some of the overtime rules. But essentially I don't think you'd find a big gap between one and the other, typically.

Ms. Schriemer: — Thank you. Another quick question here. The member across the way, Ms. Junor, suggested that the unions at the hospitals are represented by trade. We have SUN for Saskatchewan Union of Nurses, and we have SGEU, CUPE, and SEIU. However, SEIU represents a cross-section of paramedical careers — lab techs, kitchen, housekeeping, paramedics. They're all grouped, you know, with different skills in one union. And so I'm not agreeing with Ms. Junor that the SGEU, CUPE, etc., represents the same kind of people, or that it's the same situation as our unions representing carpenters, metalworkers, etc.

So with CLAC, the same thing would occur then that occurs in SEIU or CUPE, meaning that you would have different trades in the same union. Can you just go over how many different trades would be in CLAC that you'd be dealing with?

Mr. Brown: — Sure. And you're right. I mean it's a wall-to-wall, multi-craft bargaining unit, but each trade gets a different rate of pay. So on some agreements we might have 20 different trades or thereabouts incorporated. And keep in mind that for the compulsory trade where there's what I'll call a safety component involved — you know, electricians, welders, a lot of those trades where public safety would be compromised if the work isn't done properly — we're still using journeyman plumbers, electricians, welders, whatever, to perform that work. The wall-to-wall, you know, nature of the collective agreement doesn't impact that at all.

Ms. Schriemer: — Thank you very much.

The Chair: — Thank you, Ms. Schriemer. Mr. Hart.

Mr. Hart: — Thank you, Mr. Chair. Mr. Brown, you talked about the number of employees that you have working across Canada and in the US [United States]. And you mentioned that particularly in Alberta there's a number of Saskatchewan residents who are working for your company. And you thought that if you came to Saskatchewan and worked here that a number of your current employees would follow you. But yet, I'm trying to get a sense of the available skilled tradespeople that you may have that you could bring with you.

A previous presenter presented information to this committee that in the future Saskatchewan's going to need over 4,300 skilled tradespeople and employees over and above currently what we have working here now to meet future demands of the large construction and smaller construction that's already, you know, planned in the future.

I wonder if you could be somewhat more definitive because we also had other presenters tell us that regardless of changes or proposed changes that companies coming into this province would be drawing from the same labour pool that's currently here now. So there seems to be a bit of a contradiction, and I wonder if you could just provide some clarity in that area. Do you have a number of unemployed tradespeople and skilled

labourers, that currently in your company or that you could draw from that you could bring to this province on, you know, reasonable notice?

Mr. Brown: — And the answer might seem like waffling, but the answer is really sometimes. Two years ago when Fort McMurray was going gangbusters, I mean, the local and community of tradespersons wasn't sufficient, and we were bringing in, both ourselves and the building trades, workers from outside the country. Right now with the crash that's occurred up there — and, you know, who knows how long that's going to last, or whether your boom and theirs might coincide — we just as one company laid off 600 people in our industrial division when Suncor and some of those big energy companies in McMurray decided to slam the door on those jobs.

So right now there are people sitting in Alberta that would be happy to go to work anywhere. And the ones that happen to be from Saskatchewan, I think, would be more than pleased to work here. And the ones that were working in McMurray that were from Saskatchewan, if the job opportunity was here, my guess is they'd prefer to be at home even if it meant, you know, a dollar less an hour or whatever. And if it gets busy enough here, chances are those wages are going to equalize anyway. I don't know whether that answered your question.

Mr. Hart: — Well it does give a little more clarity as to the availability and so on. However if in a couple of years time if, you know, things get back to more normal circumstances in the other areas of the country, what would your, I guess, best guesstimate would be, as far as the additional skilled tradespeople and skilled labourers that would come to Saskatchewan with your company and stay here, provided that you have the work for them?

Mr. Brown: — I mean, if I had to guess, I'd say 80 per cent of the 100 or 150 Saskatchewan residents in our camp would much rather work at home if there were equal opportunities in both places.

Mr. Hart: — Good. Thank you for that.

The Chair: — Thank you, Mr. Hart. Mr. Broten.

Mr. Broten: — Thank you, Mr. Chair. Throughout the course of the hearings over the past couple of days with the majority of the presenters, we've had the opportunity to discuss what are the push and pull factors for companies coming in, for employees coming into Saskatchewan or leaving Saskatchewan. And there's been a debate or different things have been identified that contribute to this. The economy certainly plays a role and labour legislation as well.

In your example, when you talked about the number of employees that are Saskatchewan people that may want to come back, there's obviously a number of factors that might determine whether or not these individuals want to move. I know for myself, you know, I've worked in other provinces because an opportunity presented itself and I decided to pursue it.

So these employees that you have that are in different sites outside of Saskatchewan that will be working under CLAC,

what's preventing them — if they're unemployed in those locations and if there is a need in Saskatchewan and a demand — what's preventing them from not necessarily . . . What's preventing them from leaving where they are if they're not working and coming to an opportunity in Saskatchewan and joining one of the trade unions here and having an opportunity here?

[15:15]

Mr. Brown: — Well I suppose if the employment opportunities are here, probably fundamentally nothing. But just someone that has been a building trades member for many, many years and are tied into the pension plan and a benefits plan and all that good stuff, they don't want to go and work for CLAC or in the open shop if they can maintain what they've had.

And similarly with the CLAC employees. They develop a certain loyalty to their union, and that's who they want to work with. And if they can't work with that union here in Saskatchewan, they're probably going to be working with us somewhere else or one of our competitors.

Mr. Broten: — Thank you.

The Chair: — Thank you, Mr. Broten. Mr. Yates.

Mr. Yates: — Thank you very much, Mr. Chair. Just one quick question. The issue of whether or not compensation is equal or unequal, as you probably know, is a very difficult thing to analyze because no two collective agreements are the same, and no two costs to any employer are necessarily the same. But is there anything fundamentally different in the collective agreements or styles of collective agreements or benefits that you're aware of between a CLAC collective agreement and/or others? I'm just trying to get some sense of why the issues that we talked about, if they're really there or not.

Mr. Brown: — I mean there are differences, for instance, on the pension side of things. The building trades unions typically have defined benefit type pension schemes for their workers. With CLAC, we remit an hourly levy that each employee takes ownership of and they make their own investment decisions. So there's things like that.

As far as basic hours of work, I mean, maybe some differences on the overtime pay. Building trades might be double time; CLAC might be time and a half for a certain portion beyond 40 hours. There's some subtle distinctions like that. Clearly there aren't any of the jurisdictional lines drawn in the sand that define exactly what any one individual can do in the course of his day's work, but I mean in essence they're union agreements, and they contain provisions that address all the usual things.

Mr. Yates: — Thank you very much. My next question is, if we wanted to try to do some analysis of this, would your company and CLAC be willing to provide some collective agreements to look at?

Mr. Brown: — I think actually all our collective agreements, and certainly in Alberta and BC, are matters of public record. You can access those through public domain, but certainly we would be happy to share those with you.

Mr. Yates: — It's just one way for us to see firsthand if there are or not . . . You know, the anecdotal evidence is one thing, but to examine for ourselves. Thank you very much.

The Chair: — Thank you, Mr. Yates. Mr. Iwanchuk.

Mr. Iwanchuk: — Just a further question. In terms of Alberta, when now CLAC has been with you for 20 years, so in Alberta would every time you change sites, CLAC's just automatically the union?

Mr. Brown: — Well you typically get certified on a provincial basis for a work scope. So for highway construction for example it doesn't matter whether we're working in McMurray or Lethbridge, and if we move our crew from here to there, collective agreement just carries forward.

Mr. Iwanchuk: — Okay. So is that sort of like provincial bargaining?

Mr. Brown: — It's like provincial bargaining, yes.

Mr. Iwanchuk: — It's not site specific where you have recertify every time.

Mr. Brown: — Certainly not have to recertify every time, but I believe there are — and I'm getting a little of my own domain because I'm not in the industrial sector — but I mean some of our industrial sites have had a little different environment and a little different terms. But as far as the certification, it's been the same.

Mr. Iwanchuk: — So once you get a certification as road builders for Ledcor, you can go anywhere in the province and it's unionized.

Mr. Brown: — Absolutely, unless the employees chose to decertify or change unions or something of that nature.

Mr. Iwanchuk: — Has that added a bit of stability to your . . . that you don't have to recertify on every site that you go to?

Mr. Brown: — Well I think, you know, once you have an agreement, and once you've chosen or become party to a specific business model, that it's a good thing that there be some continuity there. For sure.

Mr. Iwanchuk: — Right. And stability. Right. So if you came and you had to recertify on every project in Saskatchewan that you built, how would you feel about that?

Mr. Brown: — I don't really totally understand how the industry works here. My understanding is the union contractor here is a union contractor. If we got certified building roads here, we'd be certified for the province.

Mr. Iwanchuk: — No, but no, you've come in support of Bill 80, and Bill 80 has project-by-project, potentially, certifications. Like that means every project, every project that you'd be into, you'd have to recertify. What do you think about that?

Mr. Brown: — I'm not sufficiently familiar with that detail of the Bill to . . .

Mr. Iwanchuk: — No, and I'm not asking you. I'm just asking you just as an overall, because you talked about provincial contracts and if you had to come here . . . And it's just a simple question, you know, when I'm trying to stay out of the detail of just how you felt about having to, that you'd have to recertify every time on each building project.

Mr. Brown: — If you had to recertify on each individual . . . If that were a requirement of the legislation that every time you went to do a job, it entailed a new certification and that was mandatory, that would be troublesome. It would be bureaucratic. It'd be time-consuming. It'd be just not a good thing.

Mr. Iwanchuk: — Just because I guess the other, now in . . . So I guess my next question when you went into a different — and maybe you can or can't answer this — when you would go into a new province or whatever, you'd have to bring CLAC or however that would work, but each province has its own labour relations regime. Could you start with two employees and build on that, or do you know how that . . .

Mr. Brown: — I don't know. I mean, typically you have to have a big enough group that it's deemed to be somewhat representative. You can't come in with one captive employee and sign up under some banner and say that's the wishes of the employees.

Mr. Iwanchuk: — Well you can under this . . .

Mr. Brown: — Well maybe you can. There's lots of legal sanctions for those type of things. And there's all kinds of rules set up to govern exactly what you can and can't do during a certification process.

Mr. Iwanchuk: — Yes. No, I agree with that but because we had discussions here about stability and provincial agreements and that that's important to the industry and try and establish that, because we've heard from a number of presenters who say that's important. And then we have this balance where people want to recertify on each project or have the ability to do that. So thank you for those.

The Chair: — Thank you, Mr. Iwanchuk. If there's no other questions . . . Mr. LeClerc?

Mr. LeClerc: — If there's no further questions by the other side, I'd like a supplement question.

The Chair: — Go ahead, Mr. LeClerc.

Mr. LeClerc: — There seems to be a number of the present people who have appeared in front of the committee centred on the fact that there is a philosophy difference in terms of the current model that we have in our province. And wall-to-wall — in having all of the tradespeople represented by one union, one negotiation, one bargaining thing — and that seems to have presented some difficulties with some of the witnesses in that they believe that that will lead to instability. And there seems to be a thought that this is not a good thing.

On the other side of the coin, there are people who have made presentations that have said this will not interfere with stability

of our labour market and that wall-to-wall is a good thing. I would presume that wall-to-wall is probably a good thing for the people, the businesses that are building and whatnot because it would make the project shorter in terms of timelines, getting the work done quicker.

Would that mean that it would be more cost-effective? I can see that being possibly one of the aspects of the positive for the builders. Are there negatives for the people in the union? And will it lead to . . . You've worked in the field for a lot of years under both systems. Can you compare and contrast? Could you give me some insight to what I've just asked?

Mr. Brown: — We haven't seen that as an issue, but to take your point, if we're negotiating with the union, wall-to-wall agreement, we don't have one person from every trade sitting around that table. So I guess you could make a case that the rate for the individual trades, there is more potential for that to be maybe not as correct and fair as it would be under a craft model.

We haven't found that to be the case, but you could make that argument, I guess. I don't know whether that's sort of the thrust of where you were . . .

Mr. LeClerc: — Would it lead to any form of instability having all of the trades under one bargaining unit, under one union like CLAC?

Mr. Brown: — We haven't seen that at all — quite the contrary. I mean, at least when we sign an agreement and it's wall-to-wall, I mean, it's done. It's over. It's finished. Whereas in the most recent round of the building trade negotiations in Alberta, there were, you know, 16 of the 21 trades had signed. The five others hadn't, so there was a bit of an impasse. To me, there are more complications with that model than a wall-to-wall insofar as, you know, time and stability and cost and all those things.

Mr. LeClerc: — So would you agree that there is a positive business case for the employers and the people who are hiring your company to build projects? Would that mean that if the job was shorter that the workers could look at that as a disadvantage, that they weren't employed as long on a particular contract?

Mr. Brown: — I mean, we try . . .

Mr. LeClerc: — I'm trying to find out what the negative is.

Mr. Brown: — I don't think there is a negative. I mean, I think any worker that goes out there tries to put in as good a day as he can and work as hard and be productive and, you know, do his thing. I mean to me, there's X amount of work there and it takes X many man-hours to carry that out, so I don't see that as a negative to the wall-to-wall model.

Mr. LeClerc: — Thank you, sir.

The Chair: — Thank you, Mr. LeClerc. And seeing as it's 3:29, I'd like to thank Mr. Brown on behalf of Ledcor for doing a presentation today and taking the time out of your busy schedule to come and speak to our committee.

Mr. Brown: — Thank you.

The Chair: — We will do a quick turnaround here, the next presenters being for 3:30. So we'll just do a quick change of seats and continue on.

**Presenter: Canadian Building and Construction
Trades Department**

The Chair: — I'd like to welcome the Canadian Building and Construction Trades Department. I'd ask the individual to introduce himself for the purposes of Hansard and for the knowledge of the committee.

Mr. Blakely: — Good day. Thank you very much for the opportunity to be here. My name is Bob Blakely. I'm the Canadian director of the Building Trades. We're an organization of about 500,000 men and women that make their living in the building and construction trades in Canada.

Now of that 500,000, we don't necessarily have a huge number which are poised on the Saskatchewan border to break in and take all the jobs, but you perhaps can take some comfort in knowing that of the 650 people that Mr. Brown's company laid off in Fort McMurray, most of them are working through the plumbers and pipefitters, ironworkers, or boilermakers in Alberta simply because it's a dynamic industry with ebb and flow as people get laid off. No job is forever in our business. You work on a project which is time-determined by either what you're qualified to do or by the length of the project.

[15:30]

I'm a lawyer by profession. I've practised labour relations law for 31 years in Alberta. I'm going to give you some advice as well as some advocacy. But first I do have a question. I'm going to present once. If I can get a couple other organizations that I can belong to, can I come three times and make my arguments better? I just wondered if that's the way — more organizations, maybe more clients . . .

The Chair: — I think, Mr. Blakely, that most multiple presenters represent different organizations.

Mr. Blakely: — I understand that. I can always find more clients.

The Chair: — If you want to come three times, I guess . . .

Mr. Blakely: — I'm going to give you some advice. When I initially knew that there was a Saskatchewan Party, I came here to make a presentation to the Construction Labour Relations Association, and there was a fellow who, in Mr. Hermanson's day, was the Labour critic. He spoke about how there was a need to smash — perhaps I exaggerate a little — to smash the godless commies on the labour board and fix the labour Act. He didn't realize, perhaps he wasn't that well briefed, that he was in a room full of union contractors who weren't necessarily, you know, interested in hearing that.

Then I read the backgrounder, and some of the things in the backgrounder led me to believe that either there was a serious misunderstanding about what the purposes of construction

industry bargaining were or that there was some, some degree of trying to justify conclusions. You've had an Act that has worked pretty well, and there haven't been strikes in Saskatchewan since the '80s. It's not unlike the legislation in Alberta, and the legislation in Alberta, there hasn't been a strike since 1988.

Before you throw this out, the baby with the bath water, I would respectfully urge you as a committee to go and talk to a couple of the people who are the acknowledged neutral experts in this area. There's Andy Sims, Andrew C. L. Sims, Q.C. [Queen's Counsel] who was the chairman of the Alberta Labour Relations Board for a number of years. Andy did the shaping the balance for the Canada Labour Code when it was looked after. He is an arbitrator. He knows more about this than anybody in the country.

There's Morgan Cooper who was the Newfoundland and Labrador chairman of the labour board. He's now gone back to academe at Dalhousie University. There's Tim Armstrong, Q.C. who was the deputy minister of Ontario when they brought their construction legislation in. And there's the Hon. George Adams who was the chairman of the Ontario Labour Relations Board, was a justice of the high court, has written the definitive text on labour relations. Prof. Harry Arthurs from the University of Toronto. Any of these guys can give you some very good advice about why this weird form of bargaining exists, what is the policy reason behind it, and to look at it from top to bottom.

I would also urge you to beware. It always worries me when employers come to a table like this and say, we know what's best for the workers, and we only want what's best for the workers. By definition, the people who get to choose whether or not there's a union in the workplace should be the employees.

Two people are the minimum you require to certify. If you phone the Alberta Labour Relations Board and ask them about how many organizational certifications the Christian Labour Association, for example, has done in Alberta, they will tell you a significant number. And you ask them how many have had more than two or three people for each group, they'll tell you, well that's the way they always organize. In Alberta they refer to this as a Noah's ark certification: two plumbers, two ironworkers, two boilermakers, and then you negotiate a collective agreement that covers everybody wall-to-wall.

The truth is, in construction everyone's a craft union. In Alberta, CLAC has to certify trade by trade, but can on voluntary recognition create a wall-to-wall agreement. But that agreement is carried out as if it were a craft agreement. It'll be the same for the nice people from CEP when they get more than one employer and actually do something.

Why do these bargaining structures exist? Well you have to look at our industry. The industry is transitory; the industry is competitive. And it's transitory not just for employees but for employees and employers. A worker will work . . . If you're a boilermaker and you're working here in Saskatchewan, you can easily have 15 employers in one year and put in a full year's work. It's simply because your work comes in three- or four-week chunks of 70 hours a week, and then you're off for a few days and you go back again.

In order to make the benefit programs and the education programs work, what ends up happening is the industry organizes the unions and the benefit programs in the same way which makes those things portable. From a CLAC company to a CLAC company you can be portable. You can't be portable from CLAC to the building trades or from the building trades to CLAC.

Our business is competitive. Every construction job is a job in which lowest bid gets the work. Every construction company pays the same for engineering, the same for materials, the same for overhead, the same for equipment. The only wild card in the pack is the cost of labour.

A number of you asked questions of the presenters as to what are the labour rates. If you go on the . . . I could tell you this one for Alberta because that's where probably the best comparison is. If you go to the Construction Labour Relations of Alberta website, you'll get all of the collective agreements that exist for Alberta building trades unions. Mr. Brown said he would provide you with the CLAC agreements. You can go to the Alberta Labour Relations Board. There's a requirement to file those documents. You can get them. And you'll find that there are in fact some differences in wages between the building trades and CLAC, vast differences in benefits, and differences in overtime.

And this is a business in which it's a total compensation business. Ledcor advertises itself in some of its promotional material saying they are 20 to 25 per cent an hour cheaper than a building trades worker.

Our industry is craft-based. It is highly fragmented. Eighty-five per cent of all construction contractors in Canada are trade contractors. That's part of the reason we've got a craft base. The crafts are grouped together in clusters.

My union — the plumbers and pipefitters — have plumbers, pipefitters, steamfitters, sprinkler fitters, instrument fitters, instrument mechanics, radiographers, magnetic particle inspectors, beer tap fitters, welders. You name it. Something to do with metal and something's that round, we've got them in the union. These are clustered groups of trades, and that's the same with most of the 17 unions. That's why their name falls off the end of the page on most things.

Our industry had to cope with being fragmented and the net result was we needed a bargaining structure that would work. In 1968, a book called *Construction Labour Relations* was written. It was the Canadian Construction Association and the building trades centennial project. It was written by a guy by the name of Goldenberg, assisted by a fellow by the name of Crispo. The book basically said in construction bargaining what you need to do is you need to take the power of the union on an individual employer and balance it.

Prior to 1968, what we did to bargain was we waited until the employer got a job, and then we pounded that guy and he would give us a nickel more. And we'd wait until his competitor got a job, and we'd go and visit them, and we'd pound him and get a nickel more. Somehow we had to even out the bargaining field. And what Crispo and Goldenberg said was, create essentially a union of contractors which will bargain with the union. This

works on a craft basis. This would work on a wall-to-wall basis. This would work on an all-industry basis.

Earlier on in the proceedings, someone asked a question of Mr. Ottenson who gave you, I thought, both a from-the-shoulder and a sensible answer saying, you know what? If you're bound, bent, and determined to bring the CLACers and CEP in and give them a seat in the construction industry in this province, put everybody at the same bargaining table. Let everybody bargain the same deal, and apply that deal on every job. And let the companies that manage the best, can put the people and the equipment and the plans and the planning and the mobilization together at one place and one time, and let them build the project. Let the best company win with compensation that is based on something other than the wage rate.

CLR is an exclusive bargaining agent, and a number of people have told you that is absolutely unique and exclusive and undemocratic, unconstitutional, unchristian, and probably just downright unpalatable. The truth is, every province in this country creates employer bargaining agencies and each one of those employer bargaining agencies are a sole and exclusive bargaining agent. It's the only way it works.

You know, if you think about it, a small company with 10 employees, if the union gets certified, what is going to happen to bargaining if seven of the employees go and make their own deal with the boss? It doesn't work. That's why in the construction industry, these employer bargaining federations are protected essentially by the legislation. You don't have to like CLR, you don't have to love CLR, but you do have to acknowledge that CLR exists and that CLR serves a useful purpose. It balances off the power of the unions with the power of the employers who may not have a job at the time of bargaining. It prevents whipsawing and leapfrogging. It keeps people bargaining on the same playing field.

Any employer today can come into Saskatchewan to do construction work. They make a business decision. Mr. Brown told you — quite fairly, I think — that their business decision is, we're not coming to Saskatchewan unless we can bring Christian Labour Association. They're making a business decision. They're not being barred from coming here. They are deciding they are not coming if there is a chance they might get certified by building trades unions because it's not their business model.

Much talk was made in dealing with the issue of freedom to make arrangements. The issue of choice should be an issue that an employee makes in his own economic interest. If you have a situation in my home province where sometimes the contract goes to Ledcor, if someone's out of work, his choices are work for Ledcor or starve. Usually not a palatable choice for a lot of people; a lot of people somehow generally tend to select work over starve. If you want to have choice, let everybody play, but make them play with the same pack of cards.

The issue of choice also surfaces for employers. Employers have to be able to have a bargaining agent that they can rely on. If you set up competing bargaining agents, employers are going to go to the bargaining agent that gets them the deal they think is the best for them. It will undermine your bargaining system.

If you look at the legislation in Alberta, the legislation in Ontario, the legislation in Nova Scotia or Newfoundland, they will all contain provisions that say, when strike or lockout occurs, an employer who's represented by a registered bargaining agent cannot make a deal with the union until 60 days after a strike or lockout took place. Seems strange, right? But there's a policy reason for it. If the minute strike or lockout occurs, and someone can scurry off and go make a deal, the person who really feels they need a deal, leave the rest of the body politic high and dry.

Multi-trade or wall-to-wall, the truth is construction people are in the craft business. No one working for Ledcor takes the broom out of the hand of a 17-year-old kid who's been there for two days and says, climb up to the top of that tower, 350 feet free fall. Take this, take welding application, and weld that aluminum, whatever. Welders weld; plumbers do plumbing; steam fitters do steam fitting; ironworkers do ironworker work. Some of the roustabouts . . . You know, everybody has to learn by picking things up.

[15:45]

Collective agreements outside of — and I'm basically going through the policy themes in the backgrounder — collective agreements outside of a registered employers' organization make the system collapse.

Project labour agreements is something that's set out in the backgrounder. We're in favour of project labour agreements. We have them all over the country. If you're going to have project labour agreements in your material, I would suggest you read Morgan Cooper's paper done for the Newfoundland government. What Mr. Cooper really comes up with saying that, if you have a project labour agreement and it's substantially lower than the rest of the industry, it is going to create instability and give problems. There were problems in Newfoundland and he advised the Newfoundland government about that, which is why they have the special project order where the government has to approve a project agreement, something worth looking at for any legislation. Project labour agreements — overall, positive for the industry.

Abandonment: quite simply, if a union is sleeping on its rights, it deserves to lose. If the union abandons — and I think you pointed to the decision in Saunders, which talks about it being a voluntary act upon the union's part or an inability of the union to seize into its duties — take their bargaining rights away. But if it's the employer creating an alter ego or playing a shell game, then the labour board needs to have some ability to keep the employee's choice from being replaced by the employer's desire not to have a union.

In your material, the issue of maintenance is canvassed in a couple of spots. I would urge you not to change from the current maintenance system. Mr. Ottenson told you we're really talking about contract maintenance here. The truth is, whether it is a construction project or a maintenance project, the work that the boilermakers or the pipefitters or whoever are doing, same people with the same tools generally working for the same employer in the same plant — the plant that they likely built — doing the work in the same way over a shorter period of time. It is unique to Saskatchewan, but it's something that seems to

work for Saskatchewan. And it's something that seems to work in a very effective way here when you look at the success of the construction maintenance or the contract maintenance system here.

At the end of all things, I think you need to look at some effects that may come out from this legislation if it is put into place.

First you need to look at the effect on wages. A number of people have said, all this could be a bogeyman. Truth is, if you look at some wall-to-wall unions and some fragmented unions, go to the lower mainland of British Columbia, talk to Darrell Fleming from the labour board there or a number of other people, they will tell you that with duelling carpenter unions, where there's more than one carpenter union, at a time of rising prices, in a rising tide, the civil trades get paid less on every job because duelling unions are looking to see who can take the work for the lowest.

It means workers are working for one union today, one union tomorrow. Their benefit plans are not guaranteed. They don't know where their benefits are going to go, and there is instability created in the equation.

If you are looking at the effect on wages, I would ask you to look at the effect on competition. If competition is based on wages, you're going to get a depression in wages.

I'd ask you to look at the effect on some of the organizations. There hasn't been a stampede of contractors saying — of trade contractors, the 85 per cent — saying, get us out of this terrible system. Must mean that the system works for them.

Someone asked the question as to why wouldn't the trade contractors be here to speak to that issue, and alluded I think — perhaps even a tad unfairly — that it would be some pressure from the union. Well the chances are, for a trade contractor to come here and say, I think this is a great thing, and look right into the eye of one of the general contractors he bids to, that might be a more difficult set of affairs than anything the union could ever do to him.

The effect of creating alternate bargaining structures within a bargaining structure can only have the effect of weakening the unions. Weak unions do not make good deals. Unions who are competing to say, I can give you the lowest possible cost, will not give you the best answer. You know if you look around and say, what exactly do some of these unions bring to the table, and you look at the construction unions across this country, we spend \$200 million a year training people. We have an infrastructure across this country of 1,000 training centres for which are worth about \$600 million replacement cost. We trained somewhere in the range of 150,000 people last year — some in trade skills, some in safety, some in upgrading. That comes out of the collective agreement. That comes out of a collective well.

Getting rid of the building trades unions or impairing their function impairs that ability to do training. So if you're inclined to have CEP and CLAC at the table, don't let them depress markets. Put them in at the table.

The effect on the registered employers' organization you need

to look at. A registered employers' organization needs to be able to resolutely represent those employers that empower it. If there needs to be a change which would allow the employers to all get together and say, we, all of the mechanical contractors, pooh, we spit on the floor of CLR; we want the Mechanical Contractors' Association or somebody else to do it — maybe you're building in some choice by doing that. But the truth is, keeping a CLR or a CLR-like group that can effectively represent the employers is an absolute bedrock requirement for your system.

I can keep going on this for days, but maybe the time would be served better by saying those are my submissions and I would respectfully answer any questions that you may have of me.

The Chair: — Thank you, Mr. Blakely. We will now entertain questions to the Canadian Building and Construction Trades Department. First on the list is Mr. LeClerc.

Mr. LeClerc: — You stated that safety wasn't a concern whether it was in wall-to-wall or individual unions.

Mr. Blakely: — I didn't speak to safety at all. I would say this. If you look around and look at the numbers and if you look at, say, the number of fatalities, there are very, very, very few fatalities on building trades jobs. There aren't the fatalities there were before. There's a number of companies that have great safety records, whether they are a union or non-union.

Mr. LeClerc: — Well I took it to mean when you were saying that no one, whether they were wall to wall or individual union, would tell a kid, get the broom out of your hand; you've been here for two weeks . . .

Mr. Blakely: — I got you. You're right.

Mr. LeClerc: — So I was presuming that that meant that whether it was wall to wall or individual unions, they have a concern for the safety of their workers and would not put somebody in an unsafe practice.

Mr. Blakely: — To be completely fair, there are a number of non-union or alternate unit contractors who are absolutely tremendous safety. There are a number of contractors that don't, which is why 30 per cent of all the fatalities every year across this country is in construction, even though we have only 8 per cent of the workforce.

Mr. LeClerc: — Thank you. In terms of competition — and again, I'm not a union person and trying to figure out . . .

Mr. Blakely: — I could tell.

Mr. LeClerc: — Yes. But I'm also not a non-union person.

Mr. Blakely: — I could tell that as well.

Mr. LeClerc: — I ran charities, so I didn't need to work with union. And many of my friends are tradespeople. And I don't have a particular dislike for unions. It's not part of my ideology. And so I'm trying to be fair and find out and ask questions from that premise.

Mr. Blakely: — Yes, sir.

Mr. LeClerc: — And this may sound simplistic to you in my lack of knowledge, but you were saying that this issue of competition, that if I'm not incorrect, and I may be, the issue of competition, if someone has to deal with one union and one union only — not two unions, not two trade unions in carpenters — my understanding is that we have one union here in the province for carpenters, another one for welders, another one . . .

Mr. Blakely: — Yes.

Mr. LeClerc: — And so we don't have two unions of each trade competing against each other, working with an employer for competition. We have one trade union dictating what that particular trade will charge in a particular job or wages. And that particular trade can stop the action of a construction site by going on strike. Now am I, like, do I not understand this right, that competition takes more than one person bidding on a job?

Mr. Blakely: — I agree with that completely. But I think you misapprehend exactly what the construction business is. If you were to look at, go get the yellow pages for Regina and look at mechanical contractors, the mechanical contractors that are in that book — and there's probably a couple hundred of them — will, in the main, employ plumbers. They may employ a couple of sheet metal workers, they may employ a couple of refrigeration workers, but generally speaking, they're competing with their peers, other mechanical contractors for bidding on the plumbing work in a high-rise building. They have one union, the United Association of Plumbers. They deal with them.

There is a possibility for sequential striking under this system, and in other provinces there are forms of dispute resolution systems for that. But you've got the exact same issue with their wall-to-wall. I mean in our business I said 85 per cent are trade contractors, 85 per cent are pretty much straight line. We're all ironworkers. We're all boilermakers. We're all pipefitters. We may have some other people from other trades, but those are our trades — boilermaker, steel fitter, welder. Those are all their own trades, right.

Will a union that has all of the trades under one, will that be a more efficient bargaining system? Not necessarily. You know, you look at large tag end units of people who are unsatisfied. You tend to get upset in bargaining.

If you look at all the learned works that talk about the construction industry, they really say craft by craft is the best. And every labour Act in the country, including Quebec's, preserves the craft unit as the most appropriate unit. And I think in Mr. Aitken's material, he gave you a great quote from a Judy Fudge from University of Saskatchewan, the law school there, on that particular aspect.

Mr. LeClerc: — In your one statement, sir, you said that if we were to let CLAC into the province in some form of presence as a union or any other union, that there needs to be a mechanism that they could all sit at the table . . .

Mr. Blakely: — Yes. I think . . .

Mr. LeClerc: — With all of the other unions. Now could you expand that a little further for me.

Mr. Blakely: — Sure. I mean, if you want to talk about the ultimate in choice, in Quebec everybody has to be in the union to work in construction. There are five unions. You may opt for whichever union you wish to opt for, but everybody will do it with the same collective agreement. So your choice is what union do you want.

I think if you were looking at CLAC or CEP coming in to work in the Saskatchewan construction industry and to be a bona fide union, let them have whatever structure they have internally. But in terms of their collective bargaining, make them bargain with the building trades so you've got one deal that covers the construction industry from wall to wall.

Mr. LeClerc: — And one final question, sir. You said that the trade workers joining CLAC, that the scenario is either you go to work for CLAC or you starve if you haven't got a job. Surely there must be a willingness in this amount of people, in these types of economy, in a burning economy like Alberta, that couldn't get enough tradespeople to have this many people . . .

Mr. Blakely: — Still can't, actually.

[16:00]

Mr. LeClerc: — Right . . . in CLAC. Surely the economy dictated that they had choice of different trades. It couldn't be just that they joined CLAC because they didn't want to starve to death. There had to be other factors there, no?

Mr. Blakely: — Yes, I agree, there are other factors. For some people they've come, a lot of people came from Atlantic Canada who didn't have a trades certificate, weren't an apprentice, had, you know, a strong back and a will to work. In some cases they couldn't get on in an apprenticeship. In some cases they had a bit of experience, and to CLAC's credit, they took some of those people in and actually got some of them up to speed. Others caught on with the building trades.

It is the job you get to or the job that you want to hire on for. Without having a hiring hall, CLAC doesn't have the same sort of referral system the building trades do, so their ability to recruit people is marginalized, so they'll take whoever they can get.

Mr. LeClerc: — Which leads to my final question. If that's the case, and following on your last answer that they brought these people, put them into apprentices . . .

Mr. Blakely: — They brought them or they brought themselves.

Mr. LeClerc: — They brought themselves, but they brought them into apprenticeships and whatever the next form is, journeyman and whatnot, to be a tradesperson. There has been a lot of talk over the past couple of days on the disintegration of the apprenticeship program under CLAC or some of these other unions, and my understanding, and again I may be wrong, but my understanding is each province has legislation and inspection around the apprenticeship programs and . . .

Mr. Blakely: — Not each province. If you're looking at British Columbia and Alberta, in Alberta, yes I would say somebody goes to work in a compulsory trade working for Ledcor or Flint, he will be in an apprenticeship program or be a journeyman, no argument. Go to British Columbia where the Liberal government imploded their apprenticeship board and got rid of their compulsory trades and that sort of thing, different kettle of fish.

Mr. LeClerc: — But in our province that has a strong oversight on apprentices, that would be regardless of what union, including the 17 that we currently have in place, there is a mandate . . .

Mr. Blakely: — Okay, I agree. You know what? Credit where credit's due. I mean, whether it's in Alberta or Saskatchewan, if you're a serious contractor you're complying with the rules.

Mr. LeClerc: — I thank you for your very, very informative presentation, sir, and your clarity of answers. It was extremely helpful, and I thank you for your list of references that you have provided from the other provinces, that we could look at their legislation.

Mr. Blakely: — And I really think that is something that you need to do. I don't wish to lecture or hector on this one. I've been doing this for 31 years and I'm just starting to really get to the bottom of this very arcane sort of piece of legislation. It's tough to come in and pick it up right on the fly.

Mr. LeClerc: — Well I thank you, sir, for your approach. I thank you for your comments on abandonment and some of the other issues. They've helped me, uneducated in this particular area, to be a little bit more educated. Thank you.

Mr. Blakely: — Thank you, sir.

The Chair: — Thank you, Mr. LeClerc. Mr. Broten.

Mr. Broten: — Thank you, Mr. Chair. Thank you, Mr. Blakely, for your presentation. Over the last couple of days, we've heard a lot of talk about democracy and choice and the rights of workers from a number of speakers. We actually heard from one speaker this morning who suggested that the current system is in fact an infringement on Charter rights.

Mr. Blakely: — The Supreme Court of Canada doesn't think so, so they're probably a better judge than he was.

Mr. Broten: — Fair point. We also heard this afternoon from bricklayers, who talked about the rich tradition of over 100 years, of people identifying as belonging to that trade, to that craft. So I was interested when you brought up this notion of Noah's ark certification, as you described it.

Mr. Blakely: — Yes?

Mr. Broten: — Of two by two, and where, as I understand it, simply two people within a given trade could be making a decision that has ramifications for many people. To me that seems counter to a lot of the talk we've been having about individuals saying this is all about choice and all about increasing democracy. Could you please comment or expand on

that.

Mr. Blakely: — I will. And I'll lecture for just a minute. In a lot of industries, if you're going to start a beef kill plant just outside of Regina and you're going to have 1,000 people working there, and someone tries to certify with two employees, the Labour Relations Board will say, get out; we're not interested in you certifying yet. There have to be a substantial number of people who get to choose the union that is going to operate in the plant.

In construction, two people is what it requires to do a certification. The organizing style in British Columbia and Alberta for CLAC, for the Christians, has been to get two and either create a collective agreement that covers everybody, or get two of these, two of these, two of these, two of these — that's the main number of people we're going to have — and make the choice and then go to the industrial project that's going to have 1,000 people on it. On the building trades side, if we sent two people and certified, at least we're certifying to the industry agreement that everybody voted on.

You know, so I think, choice is a big deal. It cuts a number of ways. The Noah's ark certification seems to me to be taking somebody's choice and giving it the pitch out the window at 70 miles an hour.

Mr. Broten: — And I think it might especially be true in talking about the nature of construction as you did where you said there's no permanent job in construction. If you're dealing with a site that is there for one to two to three years and not a lifetime, the Noah's ark approach I think has additional problems.

Mr. Blakely: — Yes.

Mr. Broten: — So thank you.

The Chair: — Thank you, Mr. Broten. Ms. Schriemer.

Ms. Schriemer: — I'm really trying to understand the fear that I believe exists with opposition to this legislation. Are there current barriers to union organizing workers in Saskatchewan? Are there barriers to it?

Mr. Blakely: — I don't understand. Barriers — probably not — other than you can't organize on the company's time. You can't put a pistol to somebody's head and say, sign this card or else. For that matter, if Ledcor were to come into Saskatchewan and go to work today and didn't try to certify under the construction Act but tried to certify wall to wall under *The Trade Union Act*, speaking as a lawyer, I think there's a chance they might actually succeed at that.

Ms. Schriemer: — So there's not really any barriers right now to unions organizing construction workers in Saskatchewan.

Mr. Blakely: — I understand now. If you're looking at it under the Emerald Oilfield decision which the Supreme Court of Canada approved, if you want to organize plumbers under the construction provision, or the construction Act, you need to be plumbers and pipefitters Local 179 of the United Association. That's the union.

Ms. Schriemer: — So people who are not unionized therefore have to join that union.

Mr. Blakely: — At present, yes.

Ms. Schriemer: — Do you agree with that?

Mr. Blakely: — Yes, I do. I agree with it for a number of policy reasons. The policy reasons being, you end up with one bargaining round with one collective agreement. And if there is going to be a dispute, it's one dispute and it applies over the entire industry. Every contractor who gets the collective agreement must use the same collective agreement terms so when they're bidding, they're bidding with the same deck of cards as everybody else.

If the situation were modified where other unions were added where they would also represent plumbers, as long as everybody gets the same collective agreement, I would think that all of the policy reasons are satisfied. If you have the plumbers bargaining one agreement and somebody else bargaining a significantly lesser agreement, I think you're undermining the registration agreement and that is putting you back to where we were in 1968 before we had bargaining structures.

Ms. Schriemer: — So when we talk about choices under the constitution, plumbers do not have a choice as to which union they're going to join in the province of Saskatchewan.

Mr. Blakely: — That's correct. It's like a number of cases. If you work for the public service of Canada, you get them as a statutory bargaining agent. Here in Saskatchewan if you work for the provincial government, you get them as a statutory bargaining agent. I mean those cases have been litigated through the Supreme Court of Canada a couple of times. For employers being in a registered employers' organization it's Pruden builders. It's Advance Cutting and Coring for employees. Certainly not unconstitutional, certainly not illegal, and certainly justified from a policy point of view.

Ms. Schriemer: — Okay. So they don't have choice, but if this legislation passes through, they then have a choice.

Mr. Blakely: — If the legislation passes as it is, they will have a choice. And what you will see is the, I think, relatively quick disintegration of the bargaining structure that you have now. As it disintegrates you will go into a period of, let's call it instability.

Ms. Schriemer: — So you think there'll be strikes. Is that what you're saying?

Mr. Blakely: — Sure. You know, I come from Alberta, right, where the CLACers are thick, as it were. I forget who it was said fist fights in the camp and that sort of thing. Around bargaining time that sort of stuff happens all the time. The people who work there understand clearly that when the CLACers make a sweetheart deal with the employer — what people perceive as a sweetheart deal — it limits their ability to bargain what their services are worth.

Ms. Schriemer: — So why is it in Saskatchewan then that only

20 per cent of construction workers are unionized?

Mr. Blakely: — Why?

Ms. Schriemer: — Yes.

Mr. Blakely: — In 1982 when the Devine government tubed the first registration system, virtually every major contractor was stuck with the collective agreement, couldn't do anything with it, set up a spinoff. They got a spinoff; the spinoff went away. They started doing business with the spinoff. The unions couldn't really respond, so it was a case of employer choice as to whether they'd be unionized or not at that point. And succeeding incarnations of the law didn't really put humpty dumpty back together again.

Ms. Schriemer: — And what do you think humpty dumpty would look like if he were back together again?

Mr. Blakely: — If they put humpty dumpty back together again and if 80 per cent of the construction industry was unionized again in Saskatchewan, you would have the highest labour rates in the country, higher than Alberta. You would have and would continue to have probably the best trained or at least in the top two of construction workers in the province. You would have the best security system for people's families that's found anywhere on the continent, and you would have a workforce with kids lined up around the block to say, sign me up; this is something I want to be in.

Ms. Schriemer: — So in a nutshell, you do not want another union or another representative in the province to represent people in the trades.

Mr. Blakely: — Respectfully I did not say that. What I said was if somebody else is going to come in and represent people — and I believe in choice — choose whoever it is will represent you but make certain there is one agreement so that you aren't getting choice based on lowest wage costs.

Ms. Schriemer: — So let's take that a step further into practice. We allow CLAC in and the caveat is that members of CLAC have to have the same agreement as the trade union representing that workforce.

Mr. Blakely: — Sure.

Ms. Schriemer: — So basically you would allow CLAC to exist if the standard was all of them had to have separate agreements that equal the existing trade unions in the province.

Mr. Blakely: — Yes.

Ms. Schriemer: — And then there would be no instability and we would have more employees in the trade industry and we could move on with further development in our construction sector.

Mr. Blakely: — The short answer to that would be yes. I saw Mr. Vanderlaan on TV, the guy from the Progressive Contractors who used to be CLAC's national rep. He says he doesn't have a lot of people lined up to get there. You'd have another contractor and that contractor would try and build a

base of people. I believe they would still be fishing out of the same pool of people. I believe that they would build a following of people. Would they add a lot of people to the roster? We're really only talking about three companies here: Flint, Ledcor, and JV Driver, in whatever incarnation it is. You're not going to add a lot of people.

[16:15]

Ms. Schriemer: — So when you said CLAC has sweetheart deals, does that mean that sometimes CLAC negotiates a higher wage for a trade?

Mr. Blakely: — No. I would say this unequivocally: CLAC does not have a higher wage for a trade anywhere on this continent.

Ms. Schriemer: — Then why is it a sweetheart deal?

Mr. Blakely: — A sweetheart deal means a sucker's deal, a patsy's deal. You sold out. A predator's deal.

Ms. Schriemer: — Oh, so you think CLAC sells out.

Mr. Blakely: — Yes, pretty much.

Ms. Schriemer: — So what's the solution?

Mr. Blakely: — Either leave it alone; if you feel that you need to tinker around the edges and deal with the maintenance issue in some way, or deal with what seems to be an enormous issue here, which is the abandonment issue, deal with that. If you feel you have to tinker with the registered employers' organization and how it does business, then it's simple.

If you looked at the Acts in some of the other provinces, it's not unusual to have more than one union as part of the employee bargaining agency. Put the CLACers, or CEP, or anybody else who represents a significant number of people into that bargaining, and have the bargaining system go from there.

Ms. Schriemer: — It seems to me it's very protectionist.

Mr. Blakely: — Well if you're going to have a system that requires a group of contractors, I mean let's face it. The construction labour provisions are designed for unionized construction contractors and unions. And what you want to do is you want to take that and give it a good shake, and let some other people come in here and partake. Let them come in and partake. Just give them the same deal. Why is that protectionist? The choice is, for an employer, to be union or non-union.

Ms. Schriemer: — Thank you very much.

Mr. Blakely: — You're welcome, ma'am.

The Chair: — Thank you, Ms. Schriemer. We're past our appointed hour of 4:15. Some very good question and answer. Thank you very much, Mr. Blakely, and thank you to the Canadian Building and Construction Trades Department.

Mr. Blakely: — Okay, and I'll refrain from going out and finding some more clients to come back.

The Chair: — You can always reapply for the next round of talks, I guess. With that, we will adjourn until Tuesday morning, the 23rd at 10 a.m.

[The committee adjourned at 16:18.]