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The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Saturday, November 24, 2018

The Senate met at 11 a.m., the Speaker in the chair.

Prayers.

SENATORS' STATEMENTS

ADOPTION RECORDS

Hon. Michael Duffy: Honourable colleagues, as you know, the work of the Senate of Canada extends far beyond our primary task of the consideration and improvement of government legislation. Often our work calls for us to speak up for the voiceless.

The July report from the Senate Social Affairs Committee entitled *The Shame is Ours: Forced Adoptions of the Babies of Unmarried Mothers in Post-war Canada* was an important work and welcomed by adoptees across the country, who have been fighting for years to learn about their birth parents.

My home province of Prince Edward Island and our neighbour, Nova Scotia, remain the last provinces in Canada to open their adoption records. In Prince Edward Island, adopted persons still do not have the right to access their original birth certificates, nor can natural parents obtain the adoptive name of the child they lost to adoption.

After years of advocacy by the Coalition for Open Records PEI, the Honourable Tina Mundy, P.E.I.'s Minister of Family and Human Services, has announced she is finally moving to open the island's adoption records. Minister Mundy says, "... attitudes are changing and, increasingly, Islanders want greater access to their personal records."

However, for island adoptees, there is a catch. Their long wait is not yet over. P.E.I. will have up to another year of public consultation before any changes come into effect. As it stands now, Minister Mundy says anyone who has been affected by adoption will have an option to protect their identity through a veto.

Colleagues, this means for some — we can't know how many — their adoption records will remain sealed. They won't know the names of their birth parents. This is, obviously, less than the adoptees and the mothers who were forced to give up their children want, but it's an important step.

Congratulations to the senators on the Social Affairs Committee for their important, groundbreaking report, and to Minister Mundy for hearing the call.

Now we will watch with interest the next phase, opening the records for adoptees in Nova Scotia, and finally, the passage of adoption disclosure legislation nationally that provides adopted adults unrestricted access to their original birth certificate, and to identifying information on their natural parents. Canada's adoptees and their birth mothers deserve nothing less. Thank you, colleagues.

VISITOR IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Captain Marvin Fletcher. He is the spouse of the Honourable Senator Boyer.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

PROTECTION OF VICTIMS OF SEXUAL ASSAULT

Hon. Kim Pate: Honourable senators, we recently debated and passed amendments to Bill C-51, aimed at clarifying the law of sexual assault in ways that could minimize further victimization of those who seek the assistance of police and courts.

At the same time, in Orillia —

Hon. Donald Neil Plett: Point of order.

The Hon. the Speaker: I'm sorry, Senator Pate. Senator Plett?

Senator Plett: Yes. I heard Senator Pate mention legislation. If this is a statement on legislation, I think that's out of order.

The Hon. the Speaker: Senator Pate?

Senator Pate: It's not a statement on legislation, but thank you for raising that to remind me.

The Hon. the Speaker: Senator Pate, if I may.

Senators will know that points of order are not usually raised during Senators' Statements. If something is proceeding that is not proper, I will notify the appropriate senators.

Senator Pate.

Senator Pate: Thank you very much. I will continue.

At the same time, in Orillia, a community was demonstrating the difference that validation, respect and support can make to victims of sexual assault. On November 2, in her community newspaper, a mother published an anonymous letter thanking her community for their support during the horrific ordeal of discovering her daughter had been sexually abused. The mother described the patient, calm and comforting manner in which the teacher and vice-principal, to whom her 10-year-old daughter reported the sexual abuse, as well as the O.P.P. officers who interviewed her, ensured she and her daughter had the support and assistance of a Children's Aid caseworker, nurse and doctor, and that they all pulled together to arrange co-op housing and ongoing supports from the Child Advocacy Centre and the local women's shelter.

We know from the exposure of so many cases deemed unfounded and the #MeToo realities that we cannot ignore the harmful stereotypes and victim-blaming that mean that not all victims come forward when they are assaulted. From Rehtaeh Parsons to Cindy Gladue and beyond, too many are not believed or supported, and too few cases actually make it to police, prosecutors and judges.

Colleagues, given the realities of so many women and girls who are sexually assaulted, it was so heartening to read about the difference each person that young girl in Orillia encountered made in her life. Over and over again, they demonstrated she was not alone, they would listen to her, and they believed what she said.

The care and consideration demonstrated by members of the Orillia community made a significant difference for a 10-year-old girl and her mother. While we work together to try to ensure a more just and fair society where every woman and child receives such support, let us pause this morning to recognize and thank those community members and express our admiration for their important work to support this courageous young girl.

Let us express our appreciation to our colleague, Senator Boniface, for she is the mother of Constable Brett Boniface, one of the wonderful O.P.P. officers whose sensitive and caring intervention clearly helped make a very positive and significant difference in the lives of that Orillia mother and daughter. We thank you for raising the kind of young man we need to lead and mentor others. Thank you, *meegwetch*.

URBAN INDIGENOUS CENTRE

Hon. Brian Francis: Honourable colleagues, I am honoured to rise today for the first time to inform you that on November 16 of this year, the Mi'kmaq Confederacy of Prince Edward Island broke ground on its new Urban Indigenous Centre located on the Charlottetown waterfront.

This three-storey, 18,000-square-foot building will serve as a modern hub for economic, cultural and social programming. It is a desperately needed space that will greatly benefit both on- and off-reserve Indigenous people in P.E.I., as well as the larger community.

• (1110)

It may not be common knowledge for some, but in Prince Edward Island, there are two First Nations governments representing the Mi'kmaq people: the Lennox Island First Nation near Tyne Valley, and the Abegweit Mi'kmaq Nation in Scotchfort, Rocky Point and Morell.

I was the former Chief of the Abegweit Mi'kmaq Nation and former Co-Chair of the Mi'kmaq Confederacy of Prince Edward Island, which has worked actively since 2002 to provide a unified voice for the Mi'kmaq people working towards Mi'kmaq treaty and Aboriginal rights on P.E.I. and to strengthen, promote, preserve and protect Mi'kmaq culture, beliefs and heritage. It therefore brings me immense joy and pride to know that after all

the years of concerted advocacy and partnership building, our community will soon enjoy access to greater support and resources in a modern, central facility.

Colleagues, this project is truly a testament to what is possible when all levels of government work together in the spirit of cooperation and reconciliation. I am certain that it will greatly benefit current and future generations in our province and become a main tourist attraction. I hope that you will have an opportunity to visit in the near future.

Wela'liog, thank you.

ROUTINE PROCEEDINGS

JUSTICE

CHARTER STATEMENT IN RELATION TO BILL C-89—
DOCUMENT TABLED

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I have the honour to table, in both official languages, a Charter Statement prepared by the Minister of Justice in relation to Bill C-89, An Act to provide for the resumption and continuation of postal services.

[*Translation*]

POSTAL SERVICES RESUMPTION AND CONTINUATION BILL

FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-89, An Act to provide for the resumption and continuation of postal services.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-6(1)(f), I move that the bill be placed on the Orders of the Day for second reading later this day.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

(On motion of Senator Harder, bill placed on the Orders of the Day for second reading later this day.)

[English]

QUESTION PERIOD

EMPLOYMENT, WORKFORCE DEVELOPMENT AND LABOUR

URGENCY OF POSTAL SERVICES RESUMPTION LEGISLATION

Hon. Diane F. Griffin: My question is to the Government Representative in the Senate. It's regarding the Charter Statement — by the way, thank you for tabling that. I was pleased that it was provided to senators late last evening. I was getting worried that it wasn't forthcoming. It is very interesting in that it explains the urgency of the legislation regarding the overriding of the constitutional rights of workers. The statement said, "The Bill will prevent the continuing and significant economic harms" to retailers, and "Resumption of postal services will also assist those who rely on mail as a vital form of communication and who are disproportionately impacted by the work stoppages"

Recently the Confederation Bridge, Northumberland Ferries Limited and the Charlottetown Airport were shut down due to high winds for several days, which, of course, affected mail delivery.

Senator Harder, could you explain how a 24-hour rotating strike causing mail service disruption requires government intervention, but not a nor'easter in the Maritimes — that isn't viewed as urgent? I do not see the government sending an airlift to Prince Edward Island every time we get a week-long storm.

Hon. Peter Harder (Government Representative in the Senate): I thank the honourable senator for her statement. Let me simply say that this is a matter we will be debating. It is the view of the government that this has not been a 24-hour period but actually for almost a year in which the government has sought mediation, and that it is of urgency that Parliament take the action that is before us. I am happy to debate it at that time.

[Translation]

ORDERS OF THE DAY

BUSINESS OF THE SENATE

Hon. Diane Bellemare (Legislative Deputy to the Government Representative in the Senate): Honourable senators, pursuant to rule 4-13(3), I would like to inform the Senate that as we proceed with Government Business, the Senate will address the items in the following order: second reading of Bill C-89, followed by all remaining items in the order that they appear on the Order Paper.

[English]

POSTAL SERVICES RESUMPTION AND CONTINUATION BILL

SECOND READING

Hon. Peter Harder (Government Representative in the Senate) moved second reading of Bill C-89, An Act to provide for the resumption and continuation of postal services.

He said: Honourable senators, it is with the regret I rise to speak to Bill C-89, An Act to provide for the resumption and continuation of postal services. It is as necessary as it is regrettable that we find ourselves here today.

However, it is an affirmation of the importance of postal services for the well-being of Canadian individuals, families and businesses. This is particularly so as, for many Canadians, the busy holiday season fast approaches.

Since October 22, Canada Post has been dealing with rotating strikes by its unionized workers — 8,500 rural and suburban letter carriers and 42,000 urban operations employees. Since collective bargaining negotiations began almost a year ago, the government has been doing everything possible to support both parties to reach an agreement.

Despite our continuous efforts, the two parties remain unable to find common ground on a number of outstanding issues.

I believe we can all agree that the best deals are those reached at the table where both parties are satisfied. However, we need to find a way to move forward. As the country's primary postal operator, there is an urgent need for Canada Post to restore full operations as quickly as possible.

The fact is Canadians rely on Canada Post, especially the more vulnerable members of our society, people who are more dependent on traditional mail services for parcels and personal communications, not to mention bills, statements and government services. Such vulnerable groups may include seniors, low-income earners, the disabled as well as Canadians who make their homes in rural, remote and northern areas, including Indigenous peoples.

Many of us can't imagine not having access to e-commerce and e-communications, but it cannot be overlooked that almost 30 per cent of Canadians live in rural and remote areas where Internet access is far from certain.

Without access to Canada Post services, Canadians in rural and remote areas may be burdened with much higher costs of using courier companies, an option that may not even be available in many of those remote communities.

All of this becomes more troublesome when you consider that Canadians living in the North are more reliant on parcel delivery services. Northern Canadians received approximately double the per capita parcel average in Canada in 2017 than all other Canadians. This point is brought home by the problems faced by Hands Up Canada and other not-for-profits that work to send much-needed goods to remote, fly-in communities in Canada's North.

To illustrate this, I would read into the record a letter to the editor published in the *Toronto Star* last Thursday, by Mrs. Beverley Mitchell of Toronto, where she writes:

While mail disruption is an inconvenience to many of us living in Canada, it is an impossible situation for those in remote fly-in communities in Northern Canada.

• (1120)

Unlike other Canadians who have options of private courier services, those living in these regions must rely on Canada Post for all of their deliveries.

Through a newly formed non-profit organization — registration pending — I am personally involved in sending much-needed food to shelters and soup kitchens; warm clothing to the homeless, poor and elderly; school supplies and food to daycares and schools in both Nunavut and the Northwest Territories.

Hands Up Canada is sending more than 1,000 Christmas gift packages of socks, books and a few small toys to students in these areas. For many of these children, these will be the only gifts they receive this year.

The postal strike has played havoc with our efforts to get these gifts to the children in time for Christmas. Besides the time delays and uncertainty of delivery, there is an added expense of about \$1,000 to upgrade our service level to Express Post in the hopes these parcels will receive faster service when the strike action rotates.

Weather is always a concern in the winter in getting parcels to the North in a timely manner but the strikes have made it an incredibly difficult and expensive challenge.

This regrettable situation described by Ms. Mitchell illustrates why Bill C-89 has unfortunately become necessary. It is clear that the rotating strikes are affecting households, but they are also affecting businesses, especially small and micro-businesses. According to a survey conducted on behalf of the Canadian Federation of Independent Business, nearly 70 per cent of small- and medium-sized businesses say the rotating strikes at Canada

Post are hurting them. We have all read the headlines. With rotating strikes, consumers are uncertain about delivery times, and with uncertainty comes other order cancellations.

E-commerce, of course, is an important and significant source of economic growth in Canada. Canadians today are much greater consumers of online purchases and deliveries. Stats Canada shows online sales rose 31 per cent, to \$15.7 billion in 2017. More than 85 per cent of Canadians reported making an online purchase in the last year. Whether shopping may take place online, the end result is a parcel that is delivered to a home or a workplace.

Honourable senators, many companies survive because of online sales, particularly at this time of year, some earning 40 per cent of annual sales in the short window between Black Friday and early January.

There are reports of declining e-commerce due to the rotating strikes. Profit margins that are already thin are thinner still as businesses have to look at costlier alternative delivery services for shipping arrangements. It is imperative that Parliament step in before the ongoing strikes go any further. Lengthier strike action could result in possible closures for some of these businesses.

Looking beyond our border, rotating strikes affect Canada's global status as a reliable market for commerce and trade. Canada Post has asked its international partners to freeze shipments to Canada because of the growing delivery backlogs at facilities across Canada. We must now act to put an end to these strikes and avoid any further harms to keep our economy running smoothly.

Let me turn now to the legislation itself. Honourable senators, while it is regrettable that we find ourselves considering back-to-work legislation, I would argue that the legislation before us demonstrates a positive approach to resolving a difficult and delicate dispute. Notably, the drafting of Bill C-89 was informed by a significant body of case law relating to the intersect between Charter of Rights and Freedoms and back-to-work legislation.

While back-to-work legislation is always unfortunate, the bill that is before us reflects a modern and innovative approach that is importantly based on fairness. For example, in contrast with previous federal back-to-work bills, the legislation provides that the minister appoint a mediator-arbitrator that is proposed jointly by the parties themselves. In the event that the parties fail to propose the same person, the minister must seek advice from the Chairperson of the Canada Industrial Relations Board. This mediator-arbitrator would then be mandated to resolve all outstanding issues through mediation.

If mediation were to fail on a particular issue, these would be arbitrated by the mediator-arbitrator through an arbitration model of his or her choice. The arbitration decision would establish terms of new collective agreements and would be guided by the so-called guiding principles that are reflected in the bill itself. These guiding principles go to the heart of the legislation's intent. They favour neither labour nor the employer but fairness above all.

I would like to read these principles into the record. With this legislation, the mediator-arbitrator is guided by the need to, first, ensure that the health and safety of employees are protected; second, ensure that the employees receive equal pay for work of equal value; third, ensure the fair treatment of temporary or part-time employees and other employees in non-standard employment as compared to full-time permanent employees; fourth, ensure the financial sustainability of the employer; fifth, create a culture of collaborative labour management relations; and sixth, have the employer provide high-quality service at a reasonable price to Canadians.

Let me be clear, back-to-work legislation is a last resort. The government does not take this step lightly, but we are at the last resort. Canadian households and businesses need postal services to function well, especially at this time of year. I strongly urge you to support Bill C-89 to avoid further harm. With your help, we hope to pass this important legislation as quickly as possible. Thank you.

The Hon. the Speaker: Question?

Hon. Frances Lankin: Will the honourable senator take a question?

Senator Harder: Of course, yes.

Senator Lankin: Thank you very much. You just made the point that the crisis is now and action has to be taken now. You read a very heartfelt letter written by Ms. Mitchell that you referred to. I can feel the passion with which she speaks.

What I'm not clear on is the community she talks about having actually been hit in the rotating strikes. I wonder if you have looked into that. Can you answer that question? In most situations, the union has gone to great lengths to ensure that benefit cheques are being delivered, and they are still volunteering to be the elves and get the letters to Santa. I think they have gone a long way. Would you respond to that, please?

Senator Harder: It is my understanding from the letter that it was not just the rotating strikes but the apprehension of a rotating strike that was disrupting the organization Hands Up to receive supplies and to be supported.

I cannot tell you which of the communities they are targeting have or have not been subject to a rotating strike. I can simply say for the record that the strike is significantly disrupting this admirable work.

Senator Lankin: I have a supplementary question. Thank you, senator. I appreciate that the writer of that letter had an apprehension of the potential of a problem, and I again commend her on the work that she is doing.

In a situation where we have had five weeks of rotation and where we are considering legislation that will interfere with freedom of association and its expression in a legal strike situation, I wonder if you think apprehension is enough for us to be acting urgently today.

Senator Harder: It's clear that the apprehension to which I referred must be seen in the context of the reality that so many small- and medium-sized and micro-businesses are experiencing. We know from the reports of CFIB and from the pressure and letters that have been received, particularly from small businesses, particularly from remote and rural communities, that there is urgency that there be assuredness of postal services being provided, and that indeed, in the rotation of strikes, even in the last five weeks, there has been significant economic impact.

Hon. Serge Joyal: Senator Harder, you mentioned that the Charter statement was handed to Senator Griffin and Senator Lankin I think Friday night following their request?

Senator Harder: I undertook in dealing with Minister Hajdu that a Charter statement would be provided to all senators as soon as it was provided to the House of Commons. That was tabled in the House of Commons last night, and I sent an email to all senators with the Charter statement and the bill review from my office.

• (1130)

In addition to that, today, I tabled the Charter statement so that it is in our records. The decision to table the Charter statement was that of the government's. As senators will know, it is at the present time not required. Were Bill C-51 adopted, it would have been required, but the government is doing this because it believes it is important for legislators to have before them this important piece of legislation.

Senator Joyal: Thank you, honourable senator, you answered my question. It was to ask you if you have the Charter statement appended to our minutes today for the public to read also.

Senator Harder: I emailed it earlier today.

Hon. Leo Housakos (Acting Deputy Leader of the Opposition): Honourable senators, I am rising today on this unusual Saturday sitting to speak to Bill C-89, An Act to provide for the resumption and continuation of postal services.

Senators, I will begin by saying I agree that the predictable and efficient delivery of postal services is of vital importance to this country.

More to the point, from an economic perspective, postal service delivery is of vital importance to Canada's economy and indeed for our global competitiveness.

In that regard, Canada Post is really our commercial lifeline to the world. But that lifeline is being severed because parcels entering Canada now face long and unpredictable delays. In terms of our international mail traffic, we have been told that Canada Post has asked foreign mail services to simply stop sending packages to Canada to avoid the growing mail and parcel backlog which, as of a few days ago, amounted to at least 600 tractor-trailer trucks.

Colleagues, while I support taking action on this issue, one really has to ask why it has taken the government so long to act. We have undergone five weeks of rotating strikes and the serious disruptions that the strikes have caused have been apparent for all of that time; yet, the Trudeau government has done absolutely nothing.

This past Monday, Minister Hajdu seemed to show no interest in stepping in to address the problem. She said:

Ultimately, at the end of the day, that's when you have strong collective agreements, when employers and unions work together to get a deal done that works for everyone, that's when those agreements are long-lasting and are respected in the workplace.

Suddenly, on Wednesday, the Prime Minister said that all options are on the table. What happened between Monday and Wednesday, 48 hours, that we weren't already aware of, colleagues? Very rapidly the collective bargaining process became much less important. Overnight, it was no longer the case that the best deals are reached at the bargaining table.

On Wednesday, the Prime Minister stated:

. . . of course, I'm very preoccupied with the fact that Christmas is coming. . . important shopping days are coming and we need to see a resolution to that.

But even a Liberal must surely know that Christmas generally falls on December 25. Perhaps I am wrong, but that date could not have been a surprise to anyone.

I think we can only conclude that the government's commitment to collective bargaining and to the idea that the best deals are reached at the bargaining table really didn't run very deep, because if that truly is your conviction, relatively speaking, five weeks isn't actually that long.

Ultimately, what has trumped that commitment has been the serious damage that the rotating strikes of the past five weeks have done to the Canadian economy, but the sudden realization that the political embarrassment of not resolving this issue prior to the start of peak Christmas delivery would have been acute.

November and December are by far Canada Post's busiest months. The sudden realization that the millions of Canadians who will be very directly impacted by the strike will be very angry and some of that anger may very well blow back at this government, it is the fear of that anger that has led the government to act in what is quite obviously a very panicked fashion.

Regrettably, this approach is consistent with this government's general style of policy management. We have seen this elsewhere, that the management of key files, whether it's pipelines, matters of tax or regulatory competitiveness, our foreign relations or other policy files have tended to be detached and even ambivalent.

The most recent example being Minister Joly and the Prime Minister and their sudden interest and concern with the Official Languages Act. After three years of inactivity on the file, now all of a sudden because they see a political opportunity, they're alert and concerned?

Too often this government comes too late to the policy table on serious issues in a serious fashion. It is only when an issue becomes politically embarrassing or when they see an opportunity to hammer the former government or provincial Conservatives that this government devotes its full attention and vigour to any particular matter.

In this context, it's scarcely surprising that the pattern should repeat itself even on a pressing national issue like the current postal strike.

Of course, prior to its belated intervention, it also repeated its familiar mantra of criticizing the former Harper government for the actions it took in ending rotating postal strikes in 2010.

Prior to introducing the legislation that we have before us today, Minister Hajdu claimed that:

Our legislation is very different from the Harper legislation. . . it does not mandate a particular outcome.

I doubt that this position is endorsed, though, colleagues, by the union that has been impacted by this.

Indeed, exactly like the previous government's Bill C-6, the current bill provides for the resumption and continuation of postal services. The principal difference between the current bill and that which was introduced under the previous government in 2011 is that instead of imposing a final offer selection process to resolve remaining disputes between the parties, this bill instead imposes a mediation process that nevertheless also empowers the mediator to impose a resolution of the remaining issues.

That's something else that is consistent with this government when it comes to decision-making and policy implementation, set up in such a way that someone else always wears it. Deflect and absolve seems to be the eminent guiding principles of how this government works.

It is scarcely surprising that the union is far from impressed with these tactics.

The major difference between the bill we have before us today and the former government's Bill C-6 is that it took this government a full five weeks to take this issue seriously. The previous government took action in only 12 days of rotating strikes. That amount of time, by the way, is about as long as the government of Jean Chrétien took in 1997, when it also ended, in a responsible way, a postal strike in that year. I do not believe that there is any good reason why the current government has permitted this very damaging situation to continue for nearly three times as long for the same outcome.

We should be very clear about the serious impacts that both ordinary Canadians and those who run small businesses in this country are suffering on a daily basis as a result of this strike.

The Canadian Federation of Independent Business, which has 110,000 members across the country, says of its members, they've already been hit with about \$3,000 in extra costs as a result of the disruptions to mail and parcel delivery.

Monique Moreau of the Canadian Federation of Independent Business relayed the story of just one of these businesses, a trucking company, which is dependent on the mail for paying their fuel bill. That company is being forced to shut down because of the confusion and disruption caused by missed payments for fuel.

Colleagues, it's the small businesses who are often least able to absorb such sudden disruptions and the ongoing costs of suddenly using other modes of delivery.

Due to the government's delay, Karl Littler, who speaks for the Retail Council of Canada, has said that it is now:

A matter of averting the crisis before it becomes full-blown.

So I do agree with the objective of the bill and I support the proposition that Parliament must act in order to protect our businesses and, indeed, all Canadians at what is the busiest time of the year.

For that reason, I do support this legislation, colleagues.

I only wish that the government would have acted in the interests of Canada's economy and in the interests of Canadian small businesses much sooner, instead of acting in their own best interests and using this as an opportunity to score cheap political points against the previous government. It is this type of partisan, one-upmanship that has eroded the public's faith in politicians and in our institutions.

We hear so much from the Trudeau government accusing their critics of being partisan and dismissing criticism of him as being partisan. Having a different opinion isn't partisan, colleagues. Criticizing someone isn't partisan. Having a different opinion and asking questions are at the core of what we do in Parliament. It is how we hold government to account on behalf of Canadians.

Where we lose credibility is when we say one thing and do another. Where we lose credibility is when we are more consumed with scoring political points against a previous government than we are with just doing the right thing.

• (1140)

Honourable senators, if we, as politicians, are ever going to regain the confidence of the people we serve, we must start walking the talk. Our actions must start matching our words. It cannot be enough just to talk in this chamber and stand up and rip our shirts in indignation. We must follow through with our actions and be consistent when we say something, we vote for something and we believe in something.

Don't just say something so you can be on the record as having taken a particular position. If you're going to say it, do it and stand by it.

Thank you, colleagues.

Senator Lankin: Will the senator take a question?

Senator Housakos: Absolutely.

Senator Lankin: Thank you for your contribution.

Senator Harder, I should have said that to you as well.

I appreciate the important issues that we are debating. It's important for us to take the time to hear from each other and deliberate.

As my question to Senator Harder perhaps displayed, I'm worried about the tendency we have to take one statement and extrapolate it or accept it as the truth.

You referenced over 600 tractor trailer loads of parcels at the border and distribution centres — you didn't say that, but I read the article and that's what the reference was. The union has said that's patently false. Canada Post says that's true. I don't know the answer to that. I wonder if you, in fact, do know the answer. If not — I don't have a car here in Ottawa but I think you do — maybe we should drive out to one of the distribution centres. Maybe we should find out, on some of these things where there are claims, what the actual truth is, given the importance of the legislation we're dealing with that does take away from fundamental rights.

Senator Housakos: Senator Lankin, what's important is not if it's 600 trucks or 300 trucks or 200 trucks. We know that we're in the busiest time of the year for businesses, from a commercial point of view, and for Canadians, who are dependent on sending out parcels to people and they're expecting them to receive them. We also understand that this collective agreement has been up for negotiation for a long time. This is not a surprise to the government. I think the government knows that there's a certain benchmark expected to be met by November and December, and they had a number of months to negotiate and deal with this.

Obviously, when the government takes a decision such as the government is taking today, we support it. I'm saying that it needs to be done today. We're at that point in time where the Canadian public will pay for a mistake made by both the government and the corporation for not having negotiated this problem in good faith many months in advance.

Honourable senators, that's the point I'm trying to make and that's the point I stand by today.

Senator Lankin: I appreciate that answer. I take from that that the honourable senator doesn't know which side of the allegations are true and that it's not really important to the central point that he's making. Is that what I understand?

Senator Housakos: The point I'm making is that — even if it's not 600 trucks, it's 300 trucks — if we don't take action today, I assure you that by mid-December, in the next couple of weeks, there will be a lot more than 600 trucks. That's what this Parliament should be thinking of and trying to prevent that.

Hon. Yuen Pau Woo: Honourable senators, we are here this weekend under extraordinary circumstances. Two groups of Canada Post employees, representing approximately 50,000 workers nationwide, have been without a new contract for nearly a year. As a result, for several weeks this fall, a series of rotating strikes has impacted Canada Post services in a number of cities and communities across the country. Just this past week, a handful of new work actions were launched.

While there's urgency to settle this matter in order to avoid further disruptions during a critical time of the year, we must also strive to achieve a fair outcome for all parties, including Canadians, Canada Post employees and the Canada Post Corporation. This will require thoughtful consideration of the bill that we now have before us.

Bill C-89 would impose an immediate resumption of Canada Post services and an end to all work actions. The bill also provides for the appointment of a special mediator to help the parties reach an agreement. If that mediation fails, this law would commit the parties involved to binding arbitration.

These are very serious matters to consider. At stake is the long-term sustainability and affordability of postal services for Canadians, as well as the rights and employment conditions of workers.

Our hope remains that a mutually beneficial agreement can be reached voluntarily by the parties before this law is enacted, if in fact it becomes law.

As one would expect, independent senators possess a wide range of views on this subject. As with other bills that have been considered and amended by this chamber over the past few years, I am confident that the diversity of thought expressed by senators during debates and deliberations will lead us to an outcome that is in the best interest of Canadians.

Colleagues, some of us do not want to rush this bill through in one day. On short notice, we have been summoned to Ottawa on a Saturday and are now in second reading debate. We will shortly proceed to Committee of the Whole. This is on the heels of a lengthy debate last night in the other place. Many of us are still digesting the transcripts of the debate from last night. We will need time to properly review and reflect on what was said last night and what we will hear shortly at Committee of the Whole.

It is my opinion that we should not rush to third reading today, and I hope the government will not press us to do so.

The Senate must act with haste when it is sent legislation that is deemed to be urgent such as Bill C-89. That is why we are here this weekend. But we have to balance the need for haste with the need for sober second thought. Honourable senators, we can do both, and we will have the opportunity on Bill C-89 to show Canadians how we do that.

Hon. Michael Duffy: Honourable senators, as you know, second reading is the stage at which the government asks the Senate to give approval in principle to a particular piece of

legislation, in this case Bill C-89, the postal services resumption and continuation act.

The government touts this legislation as the answer to the problem of mail delivery in Canada. Colleagues, I would submit that far from being a solution, back-to-work legislation is a big part of the problem with Canada's postal service.

As a journalist, I've been following the problems of Canada Post since the 1960s. Back in 1975, CUPW President Joe Davidson took his members out on a 43-day national postal strike. It was a long bitter struggle, but in the end then Labour Minister Bryce Mackasey and his team made a deal with CUPW without resorting to back-to-work legislation.

The 1970s, as now, were a time of great change at Canada Post. Sorting mail was no longer a craft; it was becoming a noisy assembly line where machines replaced skilled people. Management loved the machines, and they just didn't understand the anxiety and depression felt by their employees. Morale dropped through the floor, and postal workers felt isolated and alone.

In 1975, Prime Minister Trudeau refused to intervene, and the strike went on, as I said, for 43 days, as the negotiators argued. Mr. Trudeau was determined to let the collective bargaining process work. After all, why give someone the right to strike and then take it away at the first sign of trouble? It took political courage to stand back and let the parties fight it out. Say what you want — Pierre Trudeau had no shortage of political courage.

When he returned to office in 1980, Mr. Trudeau put forward legislation, and in October 1981, the post office became a Crown corporation. CUPW had high hopes that a Crown corporation would be more flexible, more responsive to workers' concerns. But, frankly, management's record has been spotty at best. Now, 45 years later, Canada Post faces new challenges, and the fallout directly affects their front-line workers.

Today, in the era of email, parcels are the big deal at Canada Post, but the rules for parcel delivery seem based on the old mail system of envelopes, and they don't take into consideration the human element.

In some cases, Canada Post employees are being paid for a six- or seven-hour work day, but some days — depending on the number of parcels — it actually takes them two or three hours longer to deliver all of the parcels and flyers they are expected to deliver.

• (1150)

So you have workers being paid for six or seven hours but actually working eight or nine hours and getting home long after dark, long after their kids are in bed, and in some cases, as I say, they're not being paid for that extra time.

Or, conversely, they're faced with mandatory overtime. Again, why not hire more casual workers so that when there is a surge, regular employees can have a more reasonable work-life balance?

On-the-job injuries have shot up as the volumes of parcels have increased. None of these human resource issues are solved with back-to-work legislation. We are simply putting them on the back burner. We're kicking the problem down the road and undermining the collective bargaining process by not allowing the parties to work it out between themselves.

Robert Paul Hebdon is Professor Emeritus of Organizational Behaviour at the Desautels Faculty of Management at McGill University. He appeared before the Senate Committee on National Finance recently, on November 7. He was testifying about Bill C-62, an Act to amend the Federal Public Sector Labour Relations Act, but a lot of his evidence in relation to that act is directly applicable to the legislation before us today.

Professor Hebdon testified:

A freely negotiated settlement between the parties is far superior to an imposed settlement, either by legislation or by an arbitrator, for that matter. When it's freely negotiated, labour and management feel like they own the settlement and support it. If they are a union, they have probably voted on it. They are generally more likely to live with the terms of it if they've got their stamp on it.

The professor says the flip side of this principle is that if it's imposed, and they haven't had a significant say, you can have a demoralized public service. It could be harmful in other ways, such as grievances, confusion over the terms of this agreement. It also affects the trust between the parties and is generally negative on the relationship between those involved. Trust is everything in labour relations.

Most importantly, Professor Hebdon went on to quote research which looked at back-to-work legislation in Canada over the past 30 years. That research found a legislated settlement in a previous contract is associated with a 27 per cent decrease in the probability of a bargain contract in the next round. Let me repeat that: When legislation imposes a settlement, there's a 27 per cent decrease in the probability of the next contract being done at the bargaining table.

If we look at the history of labour relations at Canada Post, we can see that while Bill C-89 may solve a short-term problem, it is only that, short term. The tougher, better answer is to follow Pierre Trudeau's lead and allow the two sides to continue to negotiate without the threat of legislation.

For that reason, honourable senators, I will not be voting in favour of this legislation at second reading.

Senator Joyal: Honourable senators, I would like to thank the Government Representative in the Senate for tabling the Charter statement. I read it through very quickly, so I will not venture that the suggestion I am going to make to you today will fully cover everything I would have liked to cover, because I did that in a rush.

There is something in it that I want to draw to the attention of honourable senators. This legislation is serious legislation because it curtails a right that has been recognized and entrenched in the Charter and widely interpreted by Supreme Court decisions through the years. Sections 2 (b) and 2 (d) of the Charter speak to the right to freedom of association that has been interpreted by the courts to include the right to strike.

The previous legislation that this chamber was invited to adopt in 2011, as honourable senators will know, was challenged in court, in 2015. That is the Ontario Superior Court decision of 2016 between the Canadian Union of Postal Workers and Her Majesty in right of Canada and Canada Post Corporation.

The court, in its lengthy decision — in fact it's 45 pages — identified clearly the legal process to follow, to come to the conclusion, if the infringement on the right of freedom of association and right to strike has been validly limited by Parliament.

In the case of the legislation of 2011, the court came to the conclusion that it was not. And the court, quite clearly, repeated or restated the test to be applied to come to the legally valid conclusion that the limit on the right to strike is legally justified.

I would like to read to you paragraphs 195 and 196 of that decision:

Section 1 of the Charter provides that The Canadian Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.

What does it say? It says that the measures addressed in section 2 of the Charter, the right to freedom of association and the right to strike, are not absolute. They can be limited in certain circumstances whereby such reasonable limits are prescribed by law.

The court continues, and I will read:

The operation of those limits is set out in the *Oakes* test, which provides that a rights-infringing government measure will be justified under the Charter if its objectives are pressing and substantial, if the measures devised to achieve those pressing and substantial objectives are rationally connected to those objectives, if the rights-infringing measures minimally impair the infringed right —

That is, the right to strike.

— and if the salutary effects of the rights-infringing measures are not outweighed by the deleterious effect of those measures on the protected right.

In other words, there is a three-level test to apply. When I read the Charter statement that the honourable Government Representative has tabled, I was expecting — maybe naively — that legal reasoning would be well explained in the Charter statement. That is, the Minister of Justice would have gone through each of the steps and answered clearly how the bill

satisfies those three questions that are included in the *Oakes* test. That's what a law student would read, primarily, in that document.

I understand the dynamics of the bill, the way the Government Representative has explained, and I'm sure that the government, in drafting the legislation, has certainly taken into account the criteria that have been well explained in the decision of 2016 of the Ontario Superior Court, especially one very important element of that decision, which is paragraph 2.11. To me, it is the key issue of what we have to get as an answer. I will read:

How do those considerations impact the section 1 analysis to be applied? In this case, unlike another case, there is an arbitration mechanism, the FOS process mandated by the act in the event that collective bargaining would be unsuccessful. FES requires us to consider whether OFS was an adequate, impartial and effective alternative mechanism —

And the key question is this:

— whether it balanced the union's loss of bargaining power that resulted from the abrogation of the right to strike.

• (1200)

What is collective bargaining? It's two parties, the employer and the employees, and the system provides balance between the two in the negotiation. The employer has the right to lock out; the employees have the right to strike. Each one is in a balanced relationship. If you tilt the balance of one of the parties by removing the right to strike, in principle you automatically favour the other party, the employers. So when you devise the legislation, you have to make sure that you re-establish that balance, that you don't tilt that balance to the point whereby you give all the marbles to the employer. This is the essential question that, in my opinion, we have to get answered when being asked to vote on this legislation.

Again, honourable senators, I apologize, I didn't have time to go through all of the other decisions of the Supreme Court in the short time since that has been submitted to us. However, as far as my previous knowledge of the issue — I remember the debate in 2011 in this chamber well — I stood up and I raised those issues. I voted against the 2011 legislation because, in my opinion — and, of course, I was confirmed in my opinion by the decision of the Ontario Superior Court — but if the government wants us to vote for this legislation, the government has to satisfy us that the criteria that have been identified in the decision of the Supreme Court are fully answered.

Again, I say that with the greatest of respect for the Government Representative. To me, the Charter statement that has been provided doesn't satisfy all the aspects of the elements that have been identified by the court and that might be included in the bill.

We are at second reading stage. I'm not saying that the bill doesn't satisfy them, but certainly the Charter statement provided — I have the impression it was put together very quickly — doesn't, in my opinion, satisfy those aspects of the course to be run to be sure that this legislation is constitutionally sound. When

we have the Committee of the Whole, I hope that witnesses will be able to answer those aspects of the question that are essential, honourable senators, to vote in good conscience that this bill is constitutionally sound and we are not tilting the balance in favour of the employer at the expense of the rights of the employees.

Honourable senators, that's what I wanted to suggest to you at this stage of second reading.

Senator Lankin: Will the honourable senator take a question?

Senator Joyal: As many as I can, senator.

Senator Lankin: Thank you very much. May I just begin with a comment to say that I think you are absolutely right in the issue you have zeroed in on. I also agree that the Charter statement we have received doesn't address that. Just for information, for those listening to the Senate, when we refer to in Chapter 20.11 FOS, that's "final offer selection" versus what we see with the set of criteria set out.

I asked Professor Hebdon — who Senator Duffy referred to — for a quick opinion on this piece of legislation. He points out the very point you made about the balance. He says this strikes a much better balance, but even at that it will probably have to be eventually determined by the courts whether or not the right balance has been struck to protect rights.

Having said that, at the end of the day, isn't it about getting to a collective agreement that is going to serve the purposes of the parties and the purposes of Canadians? After all, this is a public service that we're talking about. On reviewing the legislation — not the Charter issues per se because we will certainly be doing that — do you feel the government has made an effort different from the 2011 legislation that both chambers face to find and strike that balance?

Senator Joyal: Thank you for your question. Again, senators, as a lawyer I always hesitate to give an opinion when I didn't have the opportunity to look into all of the aspects. However, I will venture an opinion in relation to your question.

The first one is about essential services. I have heard comments about that. Again, the decision of the Ontario Superior Court of 2016, at paragraph 206, referred to that concept of essential services, which reads:

The very definition of "essential services" under the impugned legislation required basic judgments to be made about —

— and I underline this:

... when life, health, safety or environmental concerns *inter alia* required an essential service designation. The impugned legislation in *SFL* permitted these fundamental questions to be answered unilaterally by the employer with no access to an effective dispute resolution mechanism for reviewing contested designations.

In other words, the court takes a very procedural aspect. If you are to invoke essential services, generally, this is not enough. You have to prove the impact on life, health, safety, and

environmental concerns. Those are the essential criteria. There might be others. I don't deny that. But those are the essential elements.

To answer your question more directly, the difference between this legislation and 2011 — I noticed it and the Government Representative has pointed out at paragraph 11, page 6 of the bill, paragraph 11(3) — when the bill contained the guiding principles for which the mediator-arbitrator will have to pay attention. And I have noticed, although I have not been involved in the negotiations, that many of those aspects are the objects of discussion and request from the union. I heard it on the radio last week, especially to ensure equality, clause 11(3)(b), “to ensure that the employees receive equal pay for work of equal value.” I remember hearing of women working for the postal service saying they were underpaid and we do the same job as our male counterparts. I understand that those are essential elements of the negotiations.

In other words, the parties will find themselves at the table with a specific mandate of the mediator to take very specifically into account some elements on which the union wants to get concessions because that is the bargaining process. You want to obtain something in return.

I understand the dynamics of the legislation are different from the one in 2011 but, as I said earlier on, the operation of the whole of the legislation, tilting the balance in favour of the employers in principle because the union loses the right to strike has to be answered fully. This answer the Government Representative gave is just a part of it. And that's why we need to hear from the parties at Committee of the Whole to satisfy ourselves that we understand how this legislation is being distinguished from the dynamics that were included in the legislation this house was invited to adopt in 2011.

I hope I have answered your question, honourable senator.

Hon. Marty Deacon: Honourable senators and colleagues, I rise today to speak at second reading of Bill C-89. Like some of you, I am of several conflicting minds on this urgent and serious bill. On the one hand, I see the need to ensure our small businesses can take advantage of a reliable, full-functioning postal service this time of year. It's when the majority of them make their profits and they need our mail carriers to get their products to their customers.

I'm equally concerned about the mail packages essential to the health and well-being of Canadians, particularly in remote communities. Over the past few days, I've taken the time to learn more about what this means beyond seasonal purchases and ensuring support from our most vulnerable members of society from coast to coast to coast.

I have also tried to learn more about the needs of package delivery versus traditional mail delivery. Of course, there is the other very compelling part of this bill: the right of Canadians to strike and to demand better work conditions in a changing environment for mail, from letter carrying to package carrying. I have dealt with a variety of union groups during my career, and their important role in bettering the quality of life for working Canadians is not lost on me.

• (1210)

Two weeks ago, the Finance Committee dealt with Bill C-62, a bill that in part dealt with collective bargaining in the public service. Our Finance Committee just completed our study on the bill and returned that legislation to the chamber without amendment. It is a good bill and one that has my support.

We heard from ministers, officials and other witnesses on the importance of the right to collective bargaining and how, in all circumstances, a negotiated settlement between the employer and the employee is always better and longer lasting than one that comes through arbitration or legislation.

To quote one of our witnesses:

... A freely negotiated settlement between the parties is far superior to an imposed settlement, either by legislation or by an arbitrator, for that matter. When it's freely negotiated, labour and management feel like they own the settlement and support it. If they are a union, they have probably voted on it. They are generally more likely to live with the terms of it if they've got their stamp on it.

The speed at which this bill has arrived in our chamber is also of concern. At first blush, I respect the modern approach and guiding principles of this legislation. However, this is the second time in recent memory that we will see our postal workers ordered back to work. It would appear that little has improved for them since the last time, and there is little guarantee we won't be back to a labour disruption in the near future.

Having said all of this, I look forward to the ensuing debate. I want to hear from my senator colleagues. I wish the time to review and to do this right, including hearing from the minister, our union reps and officials. There is an argument to be made that the postal service is, in fact, an essential service and that there is economic harm that can arise from the current situation. Does this outweigh what has been framed as a health and safety issue for our postal workers? Their industry is clearly not immune to the rapid economic changes that have arisen from global e-commerce. At the end of the day, they are also Canadian workers whom we all have a responsibility to represent in this chamber. This is something we must remember in the coming hours while we listen, review many documents, deliberate, debate and make our best decision for all Canadians. Thank you.

Hon. Murray Sinclair: Honourable senators, I don't intend to speak for long. I will reserve my time for third reading debate on the major points at issue. However, I do wish to make a couple of remarks.

First of all, picking up on the comments of Senator Joyal with regard to the Charter opinion that was to us, I received the document, as I think we all did, late last night; I think it was after midnight, in fact, when it popped up on my email server. I had a chance to look at it, and I thought it was actually a preliminary draft. I thought we were going to get a more complete statement today; however, I see that we got the same thing today as we got last night. My opinion of it last night was that I would be surprised if the government actually filed it, because it's not a particularly useful document. In fact, I was a little surprised that it wasn't filed with us on toilet paper; it's that useless.

Quite frankly, let me make a comment with regard to the lack of what this statement says; that is, it doesn't even acknowledge that there is a Charter breach. For a Charter assessment to be helpful to us, I think it at least has to acknowledge that the legislation is, on its face, very similar to what was done in 2011 with regard to that particular legislation in that by interfering with the right of employees to withdraw their services, it does, in fact, become a breach of the Charter. It has to be justified under section 1 of the Charter.

We don't see an acknowledgment that there is a Charter breach. We don't see the section 1 analysis. There is a brief discussion about the importance of the legislation because it's interfering with the public's right to get mail, and businesses are suffering; however, there is no proof provided in the document, or in any of the information provided to us, that that is, in fact, the case. We are getting anecdotal evidence — people referring to letters and to comments in the media — that businesses are suffering. I acknowledge that the disruption of postal services will cause disruption to individuals in terms of their business operations and getting mail. However, what we also haven't heard about is what has Canada Post done in response to that? What are their plans? Why have they not done something to facilitate the delivery of parcels and mail to those businesses that are in fact suffering, particularly in an extreme situation?

This is a situation, as with all back-to-work legislation, in which we have to be careful, as Senator Joyal so elegantly put it, that we're not giving all the marbles to the employer. Quite frankly, when I read this and understand some of the history of the negotiations that have gone on for the past 12 months, the issues that have been at the centre of the union's negotiating position on behalf of its members have not been considered with regard to this legislation, and the employer is getting all of the marbles.

The employer is getting everything they want. They get to provide services to Canadians; they get to start delivering mail; they get to require their employees to show up.

In terms of the union's concerns about the safety of employees, the evidence before the negotiation process was that, on average, 15 employees are injured each day because of the changes in the way the mail is being handled within the system.

For the next 30 days until Christmas, and for the period of time thereafter until an agreement is reached or imposed, we will be experiencing or seeing, on average, 15 employees a day who will suffer enough injuries to have to take time off work. That's a concern to me.

It's a concern to me that, by this legislation, we will continue the pay inequity that is apparent by virtue of the fact that those who are rural and suburban letter carriers are paid at a lower wage than the mail carriers in urban areas. As well, 70 per cent of the rural and suburban carriers are female. We will perpetuate pay inequity with regard to the female employees in that collective bargaining group, and I think that's inherently unfair.

I think we need to be very careful about how we respond to this legislation, and we have to carefully consider whether this is legislation we can support. On principle, I think back-to-work legislation almost always works against employees; and this, in my view, is a prime example of that. Thank you.

Hon. Tony Dean: Honourable senators, I rise to speak today on this bill because, for health reasons, I may not be available to do so in the days that follow, if indeed debate does continue into the days that follow. I offer some personal and professional reflections on this legislation.

I want to speak briefly about the right to free collective bargaining and the options that are available in terms of alternative dispute resolution when occasionally that right to free collective bargaining and the right to strike is interrupted. I do that as somebody who has worked on the labour and employer side, who has helped design back-to-work bills, and who has worked in the field of labour policy as a labour deputy minister and, indeed, a mediator.

First of all, we, in this place, all believe in the sanctity and right of free collective bargaining. It is important to note that every day of every year in this country, free collective bargaining is taking place in workplaces under labour codes that recognize the imbalance of power between employers and workers. When those rules are breached in the everyday fracas of collective bargaining, there is recourse to labour tribunals, to labour boards. Those labour boards intervene, and they intervene quickly, and those issues are resolved.

I say this only because free collective bargaining is not just what happens when a strike occurs. There is lots of effective collective bargaining in this country and a huge success rate of free collective bargaining. The vast majority of disputes are resolved without strikes, and that speaks to the effectiveness and balance of the bargaining regimes that we have in this country.

• (1220)

It is indeed the case that for some employees deemed essential — police, fire, nurses, not in every jurisdiction, but in most of them — there is an alternative dispute resolution mechanism put in place. I wonder whether that essential service's regime is appropriate. I have wondered, throughout the course of my career, whether all workers should have a right to strike. We know some workers are deemed essential. We know the courts have opined on that.

Moving downstream, we also know there are circumstances in which the right to strike is exercised. In certain circumstances, governments intervene, normally where there is a concern about the public interest, to end those disputes. In the federal sector, that's happened about 30-odd times over the last 40 or 50 years in sectors we all know well: shipping, rail, transportation, telecommunications and, indeed, the delivery of postal services. We have been here before.

When governments intervene, the nature and type of the intervention is malleable. Someone to name the arbitrator. Some impose a back-to-work bill faster than others.

In cases like that, the courts have opined. We have heard what the courts have said about some of those rather rapid interventions, interventions that result in legislation that may not be perceived as even-handed. Much of the opinions of courts that we have heard go to those cases.

In some cases, governments do intervene, and the courts opine on this. Senator Joyal gives us a terrific case study, a clinic, as he usually does, in the criteria the courts have assessed.

I believe in the right to strike. I believe in free collective bargaining. I also acknowledge that governments have occasionally — this is one — chosen to make an effort to intervene in those situations where the public interest is comprised. I'd rather it not be the case, but governments do this.

I want to talk, though, about the fact these decisions are tightly intertwined with the nature of the content of the legislation. In particular, the design of alternative dispute resolution mechanisms. The courts have also opined on this. Some of those ahead of me have also talked about this.

What are these things? Who appoints the arbitrator? That goes to the even-handedness of the process. When government includes the name of the arbitrator in the bill, yes, there is the potential for the perception that legislation is leaning one way or the other, the type of dispute resolution employed, a single arbitrator named by the government or an arbitrator named by the parties, or a process of mediation arbitration where there is a separate mediator and arbitrator, or a combination where an arbitrator first mediates in an effort to help the parties get to the resolution of a dispute.

A voice for unions in this is absolutely critical and goes to the perception of even-handedness. History and practice have told us it doesn't work best most of the time when the government names the arbitrator.

I note in this particular bill, the parties are charged with agreeing on an arbitrator. Absent that, a neutral official in the Labour Program will name a mediator-arbitrator. Though, in my experience, not without consulting the parties and attempting further to reach agreement on an arbitrator.

Second, the criteria should reflect the interest of both parties. It should be reflective of the issues in the dispute. There are some tough issues in this dispute.

I'm going to read to you the criteria I see in the bill that the mediator and mediator-arbitrator is asked to look at. The health and safety of employees in the workplace:

to ensure that the health and safety of employees is protected;

We know health and safety is a critical issue in this dispute, and the mediator or arbitrator is asked to look at those.

to ensure that the employees receive equal pay for work of equal value;

We know that's front and centre in the dispute, and that's a criteria that is set out for the arbitrator to consider.

to ensure the fair treatment of temporary or part-time employees, and other employees in non-standard employment, as compared to full-time, permanent employees;

That appears to be an issue in the dispute.

Equally, looking to the employer:

to ensure the financial sustainability of the employer;

to create a culture of collaborative labour-management relations —

— which appears to need some work in the workplace that we're talking about. I don't think there is any surprise about that.

to have the employer provide high-quality service at a reasonable price to Canadians.

The design of dispute resolution mechanisms is absolutely critical. I'm going to fast forward in this.

We have criteria that seem to me to be, for the most part, even-handed from what I've been able to see. We have a third party selected on first choice by the parties, and in the alternative, by a neutral official in the Labour Program.

I'm going to finish on the dispute resolution mechanism itself. When we get to this point, there are essentially three options: an arbitrator just goes in, consults with the parties, hears submissions and makes a decision.

Second, we can have a separate period of mediation first by one person, followed by a separate arbitration process by a separate person.

Third, as suggested in this bill, a combined — we already have a special mediator working, but later, beyond this period in which Mort Mitchnick is attempting to work with the parties on resolution, there would be one person who would work for at least seven days as a mediator with the parties in an effort to reach a collective agreement. Failing agreement, that person would then sit as an arbitrator.

In my view and experience, this is the model that, to the extent possible in the circumstances, comes closest to emulating artificially somewhat the pressures at play at bargaining tables.

It's a long way from the pressure of bargaining tables. But what does it do? It allows the mediator, as a mediator, to understand the positions of the parties, the dynamics of the collective bargaining relationship between the parties at this point in time.

The mediator sees where the issues are, but also observes the behaviour of the parties, observes recalcitrance, a willingness to be flexible or not. That, likely, can give her or him an ability to push the parties around a little bit, and to consider not just the criteria, but the way people are bargaining when he or she lands on the content of that arbitrator's decision, if, indeed, it gets that far.

If we're looking in the world of the design of collective bargaining processes to try to emulate, to the extent possible, the dynamics of free collective bargaining, this is about as close as it gets. It's distant; it's a long way away from it. It can't replicate the true dynamics of collective bargaining. It's as close as it gets.

My opinion, to summarize, if we have to have a piece of back-to-work legislation — I'm not talking about whether I agree with that or not — if we have to have that — and we likely will have that — let's spend some time, as Senator Joyal and others would ask us to do, to look at the nature and design of that process, it's even-handedness and the degree to which we think, or not, it's swaying the momentum or the content or the character of bargaining in one direction or another, or is it as even-handed as it can be? Thanks very much.

Hon. David M. Wells: Thank you, colleagues. There are no winners in this dispute; only Canadians are the losers. The Trudeau government's ham-handed handling of this has put rural Canadians and small business, those who need postal delivery most, at the most important time of the year —

• (1230)

Once again, the lack of leadership on a critical economic issue is costing Canadians and the Canadian economy. We're already hearing from union leaders that Canadians will continue to pay for the failings of the government. Canadians who need this service are being held hostage, and this is unacceptable.

CUPW president Mike Palecek put out a release this week wherein he stated, "Trudeau is showing his true colours" While that's true, the unions want to continue holding rural Canadians hostage. They want to continue holding small business hostage because that's their leverage. That they see this as a right is equally as reprehensible as the government's mishandling of this issue. Thank you, colleagues.

Hon. Terry M. Mercer (Deputy Leader of the Senate Liberals): Honourable senators, I will be brief, I hope.

The mention of Canada Post as an essential service is an old story. It's no longer an essential service, as has been proven by the decline in service, but this is a critical time for both Canada Post and the union. You have been at the abyss with the evolution of the Internet, email and ever-changing technology. What this contract should be doing is recognizing that, for now — and hopefully in the future — you are far back from that abyss.

Company and union should recognize the need to, first, pay people equal pay for equal work. This is 2018. Company and union should be celebrating that there is a future for Canada Post and jobs for their employees. Company and union should be celebrating and planning how they maximize the new opportunities that being back from that abyss presents to them both.

I say shame on Canada Post for missing the opportunity to engage their employees in the planning and execution, and shame on the union for putting at risk the opportunities this step back from the abyss has presented.

[Senator Dean]

Come on, people, this is a once-in-a-lifetime opportunity for the best post office in the world and the best employees in the world to continue to change Canada Post and maximize the benefits to the employees, to the company and ultimately to Canadians.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question!

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: On division.

(Motion agreed to and bill read second time, on division.)

COMMITTEE OF THE WHOLE

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Harder, bill referred to a Committee of the Whole immediately.)

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, I would ask leave to suspend rule 3-3(1) today.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Pursuant to the order, I do now leave the chair for the Senate to be put into a Committee of the Whole on Bill C-89. Please be advised that it will take a few moments for the necessary installations.

(The Senate was accordingly adjourned during pleasure and put into Committee of the Whole, the Honourable Nicole Eaton in the chair.)

• (1240)

[Translation]

The Chair: Honourable senators, the Senate is resolved into a Committee of the Whole on Bill C-89, An Act to provide for the resumption and continuation of postal services.

Honourable senators, rule 12-32(3) outlines procedures in a Committee of the Whole. In particular, under paragraphs (a), (b) and (d), "senators wishing to speak shall address the chair", "senators need not stand or be in their assigned place to speak" and senators have ten minutes to speak - including questions and answers.

[English]

Senator Harder: Honourable senators, I would ask that, pursuant to rule 12-32(4), the Honourable Patricia Hajdu, P.C., M.P., Minister of Employment, Workforce Development and Labour, and the Honourable Carla Qualtrough, P.C., M.P., Minister of Public Services and Procurement and Accessibility be invited to participate in the deliberations of the Committee of the Whole and that they be allowed to be accompanied by officials.

(Pursuant to the Order of the Senate, the Honourable Patricia Hajdu and Carla Qualtrough were escorted to seats in the Senate chamber.)

[Translation]

The Chair: Ministers, welcome to the Senate. I would ask you to introduce your officials and to make your opening remarks.

[English]

May I ask you to make your opening remarks short as there are quite a few people who want to ask questions? Thank you.

Hon. Patricia A. Hajdu, P.C., M.P., Minister of Employment, Workforce Development and Labour: Thank you very much, Madam Chair. As the members of this house are aware, the rotating strikes have been ongoing since October 22.

The economic and social effects are hitting Canadians and businesses particularly hard —

The Chair: Minister, could you introduce your officials?

Ms. Hajdu: Madam Chair, I have Chantal Maheu, who is my deputy minister and Tony Giles. Thank you very much for including them in the deliberations today.

The Chair: Minister Qualtrough, can you introduce your officials?

Hon. Carla Qualtrough, P.C., M.P., Minister of Public Services and Procurement and Accessibility: Thank you. I have the ADM for Canada Post here, Alfred MacLeod.

The Chair: Proceed, please, minister.

Ms. Hajdu: As I was saying, the economic and social effects are hitting Canadians and businesses particularly hard as we head into the holiday season.

First, I'd like to make it clear that our government is committed to free and collective bargaining as a basis for sound industrial relations, as stated in the preamble to the Canada Labour Code.

It's always unfortunate when a dispute results in strike action, especially when we've made every effort to help both parties reach agreements.

We truly have made extensive efforts to help the employer and the workers reach an agreement in the case of this dispute.

Now we're in a tough spot, Madam Chair.

It's a position I did not want to be in, but our government has come to the point of last resort.

As such, we've tabled legislation to require the Canadian Union of Postal Workers to resume their duties and end the strikes.

I'd like to explain, Madam Chair, how we got here.

Before a labour dispute hits the headlines, a lot of work happens behind the scenes. Thankfully, the vast majority of disputes between labour and management are resolved at the bargaining table.

An agreement is often reached with the help of mediators and conciliators from the Labour Program.

If and when their efforts are successful, there aren't news conferences that talk about these efforts. If they are not successful, we have many news conferences.

Because the officials keep such a low profile, the public might not appreciate how hard these women and men work and how much they contribute to good labour relations in this country.

In fact, the FMCS assists with labour relations, and 97 per cent of the cases in which they're involved result in a negotiated agreement without any work stoppage.

When a collective bargaining process fails and a strike or lockout occurs, the spotlight suddenly shines on the government. To many people, ordinary Canadians and many others, it may look like we've suddenly arrived on stage. The fact is we've been there all along.

Many Canadians are unaware that Canada Post negotiations have been going on for nearly a year and that the Government of Canada has been involved almost from the beginning.

I'll give you some background on the negotiations. The collective agreements between Canada Post and the Canadian Union of Postal Workers, which represents two bargaining units, expired on December 31, 2017, and January 31, 2018.

To give you some context, this union represents about 42,000 members working for Canada Post as plant and retail employees and letter carriers in urban locations and another 8,500 members who work as mail carriers in rural and suburban locations.

Since their collective agreements have expired, the Federal Mediation and Conciliation Service has been working with both parties to help negotiate new agreements.

The collective bargaining process actually began in November 2017, at which time the Canadian Union of Postal Workers made a request for mediation.

That mediation began in January 2018. And a few months later in July 2018, conciliators were appointed.

When conciliation ended without a new deal, mediators were once again appointed in September.

Mr. Speaker, all these efforts ultimately failed as the union gave strike notice on October 16, and 24-hour rotating strikes began on October 22.

• (1250)

These ongoing strikes have taken place in a mix of large and small cities across Canada, including several shutdowns of Canada Post's largest processing centre in Toronto. Even after the strike action began, our government continued to provide mediation services to both parties.

On October 24, I appointed a special mediator, Mr. Morton Mitchnick, to work with both parties, hoping that a fresh set of eyes and perspective might provide a new path forward.

On November 2, at the end of his mandate, it seemed like the parties were moving towards finding common ground.

Mr. Mitchnick was then reappointed two more times but has so far not been successful in helping the parties reach an agreement. Voluntary arbitration was offered and declined.

Madam Chair, I do believe that our government has made every conceivable effort to help the employer and workers in this dispute reach an agreement. Our government's actions, I believe, have demonstrated our respect and support for the collective bargaining process.

We profoundly know that the best deals are reached at the bargaining table, but unfortunately, in rare cases, the negotiation process does not end successfully. When both parties are at an impasse, such as we see now, and it results in long and prolonged strike action, it is the Canadian people and Canadian businesses that suffer.

Madam Chair, as our country's primary postal operator, Canada Post is part of the infrastructure upon which Canadians and Canadian businesses rely. Requiring Canada Post and the Canadian Union of Postal Workers to provide postal services protects the public interest and Canadian businesses. That's why these steps are so necessary at this time, to ensure we minimize the negative impact on Canadians, on the most vulnerable and Canadian businesses. With that in mind, I urge my Senate counterparts to do the right thing. Thank you very much.

Ms. Qualtrough: Thank you, honourable senators. I wish we were here today under different circumstances; however, as my colleague has just indicated, the time has come for our government to take the necessary steps to provide for the resumption of full postal services across Canada.

The hard fact is that we are at a critical juncture and have truly reached our final option.

Since our election in 2015, our government has been clear and unwavering in our belief and support of free and collective bargaining.

[Ms. Hajdu]

In the case of the Canadian Union of Postal Workers and Canada Post, our government has supported the collective bargaining process for the better part, as was said, of a year. However, for the past several weeks negotiations have been stalled and rolling strikes are clearly beginning to take their toll on our economy. Our government is unfortunately left with only one option.

Honourable senators, I cannot stress to you how much we had hoped an agreement could have been reached before having to resort to the legislation in front of you today.

[*Translation*]

I think we can all agree that the best agreement for both sides is a collective agreement negotiated in good faith between both parties.

We were determined to wait as long as possible to give the two parties time to reach a deal. Unfortunately, the reason we are here talking to you today is that no deal has been reached, which means that this bill is now necessary.

[*English*]

Honourable senators, I think we can all agree that the postal system in Canada is of great importance. The services provided are essential for small- and medium-sized businesses and everyday Canadians alike. For some businesses, their overall success very much hinges on a profitable holiday season.

This fact is clearly stated by the Canadian Federation of Independent Business. Currently, estimates put the cost to small- and medium-sized businesses at around \$3,000 per business, whether it's in terms of lost sales, cancelled orders or the use of a more expensive delivery service. Every day this impasse continues, the cost to businesses and the economy increases.

We also have an international trade aspect we have to consider. Our government has spent considerable time working with our international allies to promote open and free trade, and they have been forced to stop shipping to Canada.

The effect on Canadians is evident as well. Many of our most vulnerable Canadians, such as seniors, people with disabilities and those in northern and remote communities, rely on Canada Post and its workers as their only means to send and receive parcels and mail among other services.

For the government not to take action at this time, in this manner, would be simply irresponsible.

Honourable senators, our government has gone to considerable lengths to bring about the renewal of Canada Post. We believe it is a uniquely important national institution that will continue to serve all Canadians from coast to coast to coast while also helping small, medium and large businesses thrive at home and abroad.

That mission to serve Canadians is at the heart of the new vision for renewal that I had the honour to put forward earlier this year. I know the employees of Canada Post remain deeply committed to serving Canadians; they work hard every day to do exactly that.

Our new vision for renewal is forward-looking, not nostalgic. We believe Canada Post and its dedicated employees will be serving Canadians for decades to come. Therefore, they must continue to innovate and adapt to the rapidly changing expectations of their customers and a competitive, dynamic business environment.

To create the foundation needed for renewal, we put in place new leadership with a mandate to implement that vision in collaboration with employees and their union representatives.

In addition, this leadership is part of our work to incorporate greater diversity and broader perspectives within the corporation, including that of labour. The new leadership has made significant efforts over recent months to reorient the relationship between the corporation and the Canadian Union of Postal Workers in particular.

[*Translation*]

Our government is acutely aware of the concerns that have been expressed during the negotiations and all year long. Those concerns are valid, and I know both parties have taken steps to try to address them.

[*English*]

With all this in mind, our government brings before you today legislation we believe that is both fair and balanced.

Above all else, this legislation does not dictate the terms of an agreement and it does not dictate that a wage settlement be put in place. It does, however, set out a process by which the parties return to work, while continuing negotiations with an independent mediator-arbitrator whose selection will be made in conjunction with both the union and Canada Post.

The goal is clear: to restore necessary services in the short term and find common ground for the long term. All sides must work together to ensure the long-term renewal and sustainability of Canada Post.

Honourable senators, the case we have presented today is clear, measured and necessary. All possible scenarios have been taken into account, and we believe this legislation is the best way forward.

We owe it to Canadians to act with their best interest in mind, and the legislation before you today does in fact put Canadians first. We kindly ask for your support. Thank you.

The Chair: Thank you very much.

Senator Smith: Good day, ministers; welcome to the Senate.

A month ago, on October 29, the Retail Council of Canada wrote to both of you, warning of the implications of a prolonged strike. Ten days ago, eBay wrote to the Prime Minister,

indicating how pivotal online orders would be for both Black Friday and Cyber Monday. Black Friday was yesterday. Cyber Monday is now just two days away.

Based on the historical precedents that have occurred with labour negotiations with Canada Post, why would these repeated warnings have been ignored or why would it have taken so long to take the action that you're taking?

Ms. Hajdu: Thank you very much, through the chair, senator. As I said, our government believes in collective bargaining.

In order to allow that process to unfold, in fact, people have to have the time to be able to negotiate fairly and freely. It's a balance of assessing the impact on the economy, on small business, on individual Canadians, whether in rural or remote communities, with the right for labour organizations and employers to work out deals that will benefit them in the long term.

I listened to some of your earlier debate, and I share the perspective that the best-case scenario is a collective agreement that's bargained between two parties that results in a negotiated agreement. It's good not just for the outcomes for the workers; it's also good for the outcomes for the corporation. It creates a positive working environment where people have confidence and trust in each other. It's much harder to restore relations after labour disruption.

Ultimately, at the end of the day, this is an action that I think governments need to be extremely cautious in taking. I think we have reached that process, as we've taken really every step we can to assist the parties to reach a negotiated agreement. But having said that, it really was our profound belief in the collective bargaining process.

Senator Smith: I appreciate the response. I have been working in business for many years in my career, with both large and small corporations, on collective bargaining discussions. Who is calling the shots from the government's side in making the decisions? Was it yourself; the two ministers? How did it work in terms of the decision-making process to arrive at the decision you arrived at today?

• (1300)

Ms. Hajdu: Thank you very much for the excellent question.

Obviously, we have a whole-of-government approach. Certainly, it is on the recommendation of a variety of different ministers such as the Minister of Public Services and Procurement, who has the ability to assess the ongoing economic damage and the concerns raised through her office. Obviously, we are hearing from other offices. A variety of different ministers are hearing concerns from stakeholders. My job as Minister of Labour is to provide advice to the Prime Minister and to cabinet on what options we have. There are very limited tools, quite frankly, in terms of what a government can do once the two parties reach a stalemate or an impasse. Voluntary arbitration was certainly offered, but both parties do have to accept that, as you know. It is voluntary.

I think it was truly a consensus decision that was arrived upon after gathering evidence of the economic harm, of assessing the impact on the collective bargaining process and of assuring ourselves that we had done everything within our capacity to help the two parties negotiate an agreement. Up until now — or even now — the parties could come to a negotiated agreement. I still maintain that would be the best solution. But, they are significantly stuck, sir. From my perspective, this is a decision we have taken together.

Senator Smith: Can I ask one more question?

The Chair: You have lots of time.

Senator Smith: Listening to your answers, the next question that I think would be logical is this: Based on the historical experience between Canada Post and governments past and, I guess, present, as you looked at the history of negotiations, what was different this time that allowed you to wait longer to make the decision so that you now come to a point in time where the actual implications of the decision will be much harder on both the Canadian economy and middle-class Canadians?

Ms. Hajdu: Thank you very much for another excellent question. For me, as the Minister of Labour, what was different this time was understanding the outcomes of the 2011 decision to legislate Canada Post workers back to work, after a very short period of labour disruption, without due process, which was found unconstitutional. It was my desire not to repeat that mistake. In fact, that's why the legislation you're debating today is written in a completely different way. We allowed the time for labour disruption. As the strikes were rotating, the impact was not as severe as it could have been. There was a growing impact, but it was not immediately apparent at the beginning.

As you know, and as has been debated in this house this morning, there are thresholds to reach in terms of moving forward with legislation that respects the right to collective bargaining action, including strikes.

Senator Smith: As you see yourself today in terms of the government and its position, what realistic outcomes do you see moving forward, based on history, on precedent and on where the actual situation is at between the parties?

Ms. Hajdu: If I understand the question correctly, you're referring to outcomes for the corporation and for this particular union.

Senator Smith: Outcomes for both parties.

Ms. Hajdu: It is the government's perspective that the legislation we have crafted is incredibly balanced. I believe the outcomes will result in a collective agreement that is fair and balanced and will get at some of the concerns of the union members — significant and realistic concerns around health and safety issues; around perspectives that perhaps work is not being paid for that is being performed; and around inequality in the rates of pay between different kinds of employees, whether they are temporary, part time or full time. We'll also keep the profitability and sustainability of Canada Post at the centre of that decision making.

I think the outcome will be a collective agreement that will not only respect the concerns of the union and its members but also help Canada Post achieve its mandate and its vision of being an excellent service for Canadians in a way that allows them to be sustainable.

Senator Smith: How do you assess the performance of your team to date? I ask that in all fairness. In any business, as senior people, you have to be able to set your plan up and implement it. Then you have an assessment of how you have done to this particular point.

You're at a serious juncture in the actual negotiation or lack thereof. How do you assess where you have been and where it will go? How will this end — not only in the short term but also in terms of future relationships between the two parties?

Ms. Hajdu: I'll answer in terms of my own team and the mediation service. A 97 or 98 per cent success rate in terms of interventions by the federal mediation service is pretty high. I'm comfortable with the work — in fact very proud of the work — that the Federal Mediation and Conciliation Service does on behalf of Canadians. Often, as I mentioned in my remarks, they are the unsung heroes because we don't hear about their work unless they fail to help the parties reach a negotiated agreement. Inevitably, sometimes that happens, but the success rate of 97 per cent is pretty high.

I will now turn to Minister Qualtrough to talk about the corporation.

Ms. Qualtrough: I would like to point out that we have spent considerable time over the past year renewing the vision for Canada Post, putting forth a vision that focuses not only on service to Canadians but also on turning over the leadership in that organization. We have a brand new board of directors, with a new chair; we have a new acting interim CEO and president, and

The Chair: Minister, I'm sorry, but your time is up.

Ms. Qualtrough: There you go. I'm comfortable and very pleased with it.

Senator Sinclair: Whichever minister wishes to jump on this question, feel free to do so because it has to do with the bill overall.

Have you had a chance to discuss with members of the Senate or the House of Commons the issue of the alternative steps Canada Post or the government has taken in order to ameliorate the impacts that a postal strike is having upon the business community? Rather than simply intervening with back-to-work legislation, has Canada Post taken up the offer from the union, for example, that they will assist to deliver parcels and products to business communities and people who are suffering in northern communities, or has it simply been a request to go back to back-to-work legislation?

Ms. Qualtrough: I think Canada Post has been working with the union throughout this. However, I don't know how successful it has been. That's why we're here today: to minimally impact Canadians, small- and medium-sized enterprises in particular and

large businesses as well. An agreement was reached with respect to the delivery of government cheques so that we would not interrupt the provision of essential cheques to Canadians — certainly vulnerable Canadians who are relying on them.

Perhaps my officials can add to that.

Alfred MacLeod, Assistant Deputy Minister, Public Services and Procurement Canada: Canada Post and the union reached an agreement earlier in this process to define a series of business lines that Canada Post and the union would continue to work on.

As the minister has mentioned, socio-economic benefit cheques to Canadian were being delivered. There was also an agreement around live animals being shipped through the mail. Both parties have concluded an agreement to address the highest priorities.

Senator Sinclair: What, then, is the degree of negative impact on the business community if they have an agreement in place to address those necessary deliveries?

Ms. Qualtrough: About 70 per cent of e-commerce in this country is delivered through Canada Post. We have heard from many businesses about the fact that 40 per cent of some of their revenue is generated in the month preceding Christmas and that doors will have to be closed for some small businesses if they can't get those deliveries to their customers. Sometimes the margins for these businesses are so thin that they can't afford to use alternate delivery methods that are more costly.

• (1310)

The reality is, we have heard so many stories. As I referenced in my speech, the Canadian Federation of Independent Business estimates it's about a \$3,000 hit on each business when they have to seek alternate means, if they can, remembering that these means aren't available everywhere in this country.

Senator Sinclair: I have other questions, but I'm prepared to go on second round if the list is getting full.

The Chair: Please, senator, it's much easier if you just take up your 10 minutes now.

Senator Sinclair: Thank you very much. We have heard a lot of anecdotal stories and we have read a lot of them in the newspaper. You have again referred to some of the anecdotal evidence that people are saying is going to have this huge impact.

What has the government done or what has Canada Post done to actually compile some hard data that we can use to assess the situation here in the Senate to show what the impact will be from an independent perspective rather than simply relying upon the anecdotal words of one or two representatives of business entities or the business community?

Ms. Qualtrough: Thank you, senator. There have been efforts on a number of fronts to, as objectively as possible, assess the economic impact. The Department of Finance has looked into the more global economic impact on the economy as a whole. ISED has looked into the impact on small businesses.

Canada Post has been collecting data. I'm not sure it's appropriate for me to tell you the exact customers or names because of ones that aren't public. Needless to say, I have a very long list of customers who are taking their business elsewhere and are not prepared to return. I have a list of small businesses who have written in, filed complaints and have indicated their loss and quantified that loss for us.

I can assure you that Canada Post's number in terms of the impact is around a couple of hundred million dollars. I'm wary of some of the confidentiality around the personal data of businesses, but I can assure you it's in the hundreds of millions of dollars.

Senator Sinclair: I appreciate again what really is to me anecdotal evidence that you're providing to us. I would like to now be assured that we are going to see some hard evidence before we come to a final vote, so if you can provide that, I would appreciate it.

I'm also concerned about the issue of balance. This legislation appears to take away from the union its right on behalf of its members to withdraw services as part of the negotiating process, and I don't see anywhere in this legislation what the negative impact is going to be on the employer.

Can you share with me what you think the negative impact is going to be from this legislation on the employer?

Ms. Hajdu: Thank you very much for the question. I hope that the arbitrator will use the principles that we have crafted so there is not an obvious negative impact on either the union or the employer.

The principles are crafted in a way, first of all, to address some significant concerns of the union members that were raised in repeated rounds of negotiation, and they are listed first in the list of principles for a reason.

First of all, to ensure that the health and safety of employees are protected may raise concerns from members that there is a high rate of injury and that the employer must take that seriously to ensure employees receive equal pay for work of equal value, again, reflecting the concerns around differential rates of pay for different kinds of postal workers. To ensure the fair treatment of temporary, part-time and other employees in non-standard employment as compared to full-time permanent employees, something that we often talk about, paying for work of equal value fairly. To ensure the financial sustainability of the corporation, logical and practical, because, in fact, for employees to have jobs, the corporation must remain financially sustainable. To create a culture of collaborative labour management relations, and finally, for high-quality service to be provided at a reasonable price to Canadians.

If you look at the principles, at least four of them are directly addressing concerns that the union has raised on behalf of its members and that the mediator-arbitrator must consider if the two parties are not able to reach a negotiated agreement in the arbitrated process.

Senator Sinclair: Thank you. I have one final question, ministers. It has to do with the question of essential service. I have looked at the history of back-to-work legislation going back a number of years, and it seems to me that it's almost standard practice when it comes to Canada Post disputes that they end up asking for and receiving back-to-work legislation.

I wonder if the time hasn't come for the government to bite the bullet on this and actually declare postal service an essential service so that we don't have this scenario where we have to consider this question. Then the question of whether and how fair it is becomes an issue for the employees because it's an essential service that can be given adequate consideration rather than through this rushed process that we have to face each and every time.

The Chair: Ministers, you have a minute to answer.

Ms. Qualtrough: Thank you, senator. That's a conversation that has been had. We have decided that's not the route to pursue at this point, but we do recognize that this is a fundamental service to Canadians. Perhaps that's a road we can go down, but we decided in the context of this new vision, this renewed relationship, and the efforts to restore it, this might not be the time to have that conversation.

Senator Joyal: I've been listening to you very carefully, and I feel there is a lot of insistence being put on the company and not on the employees when you talk about it either as Minister of Labour or as the Minister Responsible for Canada Post. As Minister of Labour, as much as I understand your terms of reference as a minister, you are there to speak for the labourer, and the labourers are the people. Who speaks for the people, the 50,000 members of the postal service, when you have to approach and solve an issue of this magnitude?

I have heard both of you often talking about the corporation, but who is concerned about the condition of work for the people who devote their capacity, strength, energy and conviction to serve Canadians through the corporation? Could you give us more of your views on that?

Ms. Hajdu: Thank you very much. That's an excellent question, one that often comes up in terms of my title as Minister of Labour. In fact, my main role is to provide for due process so that there is, for example, federal mediation services that exist and that function in a way that help both parties achieve collective agreements that are negotiated.

I will say, however, that the Prime Minister has recognized there is a need to improve conditions for working people in Canada. That's why my mandate letter is written in such a manner, which actually some have accused goes too far and treats workers preferentially. I would disagree with those accusations because I agree with the Prime Minister, that in fact, the most vulnerable in federally regulated workplaces do not have adequate protections. That's why we have implemented things like better work-life balance through the right to request flexible hours. More than that, we have introduced legislated proactive pay equity to ensure that women are paid for work of equal value in a fair manner.

The recent legislation that has been introduced with the Budget Implementation Act that updates the Canada Labour Code in a profound way, in a way that hasn't been seen since the mid-1960s, provides for basic dignities like paid leave for sick days or emergencies that ensure that people have the ability to have some control over scheduling practices and allows them to have dignified and safe workplaces. These are all things that we have been doing as a government to address the rights of workers, which as you point out, haven't been considered in this country for well over a decade or longer. So it's my utmost pleasure and honour to do that work on behalf of workers through the mandate of the Prime Minister.

• (1320)

I would say in this particular situation, my role as Minister of Labour is not necessarily to represent the workers or the employer, but to provide a process that is balanced and fair, and the parties have tools they can use to reach a negotiated agreement, and failing that, to take action that can help move parties beyond an impasse such as the one we see today.

Senator Joyal: Yes, but the legislation — unless Minister Qualtrough wants to add something, I have an additional question.

Ms. Qualtrough: Do you mind, senator? Thank you, Madam Chair.

First of all, I would apologize if I left any impression. I think my answers have been oriented to the business response. I can assure you Canada Post employees and the services they provide are absolutely central to our way forward for Canada Post in this country.

I can give you two specific examples where the new leadership is extremely focused on making sure employees have acceptable environments in which they can thrive and provide the services they do.

I don't know if you recall the example where a gentleman asked a question at a town hall of the Prime Minister in Winnipeg. It had to do with a situation of what he perceived to be bullying at Canada Post. I met with that gentleman and with union representatives. We worked out a process. We now have a whole system in place.

We also had the union approach us about work conditions related to a very complicated process with respect to overtime. They were providing stories of how employees were experiencing mental health issues at work related to this complicated process around overtime.

Within 30 days, the new chair of Canada Post changed the process, got rid of that particular situation, and we have had extremely positive feedback from the union about her efforts to reorient overtime.

I could come up with more examples, senator. The point is, I can assure you the well-being of Canada Post employees is central to the work we are doing to renew and reorient Canada Post.

Senator Joyal: Thank you. Minister Hajdu, you have mentioned this bill has a better balance than the previous legislation adopted in 2011. As you know, that legislation has been struck down by the court. You might have heard our debate at second reading and my concern in relation to that.

Beyond the general statement you made that this bill is better balanced, could you go through the reasoning the court would follow if this bill is challenged in court, what the court has labelled the *Oakes* test? That is the three-step approach the court will apply in reviewing the constitutionality of this legislation in relation to section 2 of the Charter, which protects the freedom of expression of employees, the right to freedom of association and the right for unions to strike. Could you go through the legal reasoning strictly based on what the court would follow as a step to reassure us or to convince us that this bill is constitutional?

Ms. Hajdu: Thank you, senator. I'll leave the courts to do their work. I will tell you we were very informed by the 2015 decision, which is why the legislation is crafted in this way. I will tell you what the key differences are that we have included in the legislation to prevent a similar finding by a future court.

First of all, in terms of the appointment of the mediator-arbitrator, in 2011, the minister appointed the mediator-arbitrator without any recommendation of the parties or any support from any other agencies. In this legislation, I will make the appointment based on the recommendation of the parties or, if no names match, after advice from the chair of the CIRB, to keep the mediator-arbitrator as neutral as possible.

Mediation was not a part of the process in 2011. It is a part of our process in this legislation.

In terms of the process of arbitration, in 2011, it was final offer selection, giving the mediator-arbitrator very little ability to weave through complicated issues. In 2018, the mediator-arbitrator can choose between traditional interest arbitration or final offer selection depending on the situation in front of him or her.

The terms and conditions of the agreement set out in the legislation in 2011 were very rigid and specified wage levels and length of agreement. In 2018, the mediator-arbitrator has the ability to work with the parties to hopefully agree on the terms and conditions, and if not, arbitrate accordingly.

The guiding principles in 2011 were heavily weighted towards the interests of Canada Post. In 2018, as I have mentioned before, we have attempted to make sure the guiding principles are balanced between the needs of both parties.

Finally, we believe the way we have crafted this legislation is in such a way to be deeply respectful of the decision of the court in 2015. That is why this legislation is crafted in such a different way.

Senator Joyal: When Parliament adopts the legislation, we tip the balance in favour of the employers versus the union. There is no doubt about that. The union loses the right to strike. It is their power, in fact, to maintain a level playing field between the

employer and the union. In my opinion, any initiative we take in Parliament has to be very mindful that the legislation has to protect the balance of the parties.

I don't think, in my humble opinion, in this legislation, this question, fundamental to the decision that any court will have to take in relation to its constitutionality, is served by the way the bill is crafted, unless I'm not reading it the way I should be reading it.

Ms. Hajdu: Senator, I would respectfully disagree. I am incredibly proud of the very hard-working public servants that, upon our request, took it very seriously to review the 2015 decision and craft legislation that would not recreate those mistakes. That's why this legislation —

The Chair: Thank you very much, minister. The time is up. Senator Housakos.

Senator Housakos: Thank you, ministers, for being with us here today. You have gone to great lengths in your opening statements and throughout the last little while to highlight over and over how your government believes in collective bargaining. Of course, all of us believe in collective bargaining. It's part and parcel of our democratic process. All previous governments have also believed in collective bargaining: the Harper government, the Chrétien government, Mr. Mulroney's government. Even Trudeau original believed in collective bargaining. In a few hours, your government will also believe in back-to-work legislation, which all previous governments in the past have also exercised when it was time.

You have also pointed out there has been a long process here in the negotiation. We knew as of last Christmas we were engaging in this important negotiation between Canada Post workers and the corporation. That's a long period of time for the government to prepare how to deal with various scenarios. Some of those scenarios in these types of negotiations are that they come to a dead end, and the government has to take the appropriate steps at the appropriate time.

Minister Hajdu, just a few days ago, on Monday this week, you were quoted as saying:

... ultimately, at the end of the day, that's when you have strong collective agreements, when employers and unions work together to get a deal that works for everyone. That's when those agreements are long-lasting and are respected in the workplace.

I think, minister, you will agree that credibility of Parliament and governments is dependent on maintaining public trust. Public trust is an essential ingredient in maintaining that trust.

What or who caused you very suddenly to lose faith in the collective bargaining process between Monday when you made that comment and, I think, Wednesday evening when the government obviously decided to take different steps?

Ms. Hajdu: Thank you, senator. I still have not lost faith in the collective bargaining process. When 97 per cent of the mediated disputes can be settled without labour disruption and with a resulting collective agreement, that means by and large, collective bargaining and the collective process works.

I will stand by that statement. I believe when two parties can reach a collective agreement together, it's much easier for parties to move on, even if that agreement has been difficult and even if there has been labour disruption. However, in some cases, when parties are at a significant impasse, such as this case, when the parties are miles apart, when there are extremely contentious issues that the parties cannot seem to agree on — and in the case of a service like Canada Post, which millions of Canadians rely upon and which small- and medium-sized businesses rely upon — there comes a time when additional tools are necessary.

• (1330)

It's with great reluctance — I've said this consistently throughout all of my media presentations and speeches in the house — that we move to this next step. However, I also believe we've crafted the legislation in a way that still supports the collective bargaining process. Let's not forget there is a period of time during which a mediated solution can be arrived at. In fact, the mediation can be extended if the mediator feels that will result in a collective agreement negotiated between the two parties. Only upon exhaustion of the mediator-arbitrator's confidence that a negotiated solution can be arrived at does arbitration begin.

From my perspective, I stand by those statements. I will continue to support the collective bargaining process. I will continue to provide parties who are stuck at an impasse with every tool available. I continue to remind parties it's best to start working early and often with the federal mediation service.

Senator Housakos: Minister, that's exactly the point, if you listen to your conclusion in that answer. Wouldn't it have been more prudent for you and the government — a number of days, if not a number of weeks, earlier — to start advising both parties the government is coming to the end of the line, instead of waiting until the eve of Christmas to basically drive this through the house as quickly as possible and have the Senate sit over the weekend, at additional expense to taxpayers? Wouldn't it have been prudent, not last Monday but maybe the Monday before, to inform the parties that the government is coming to the end of the line; we believe in collective bargaining but, for a number of realistic reasons, you need to get this done quickly or we will act?

Why wasn't that the case? Why, minister, up until a few days ago, were you sticking to your line of collective bargaining at any cost; and a few hours later, all of a sudden, you drop the guillotine, the hammer, and say, "You're going back to work tomorrow"?

Ms. Hajdu: Thank you, senator. In fact, two weeks ago the Prime Minister did indicate that time was running out, that there were limited options left for the Government of Canada to help resolve this dispute with the parties.

However, I will say again the parties continued to negotiate, despite their significant differences, throughout those weeks. It is always a delicate situation to start talking about back-to-work legislation; it can put the parties in a difficult place. We recognize that. However, we wanted to ensure we were fulfilling their right to take labour action and that we would not be found in violation of the Charter, like the previous Harper government was in their 2011 decision.

Respecting the collective bargaining process means it's a difficult place for the government to be. In some ways it is caught between a rock and a hard place. We believe in the rights of workers to take labour action and to collective bargaining processes, which can be very uncomfortable.

We also know, as the Government of Canada, we have a responsibility to act when labour disruption is creating significant economic harm and other socio-economic impacts to Canadians across the country.

Senator Housakos: My next question, minister, has to do with the Prime Minister's comments of only a week and a half ago or so, where he said:

We are a government that believes in good faith negotiations that happen at the bargaining table. That is where these discussions need to be worked out.

He goes on to say:

We don't feel, unlike previous governments, that it is the immediate responsibility to be heavy-handed. We respect labour, we respect the need to come to terms at the bargaining table, and that is what we are going to continue to work on.

Clearly, the Prime Minister, again, chooses politics over doing his job as a government.

My question, minister, is this: Why does your government continue to use partisan politics in order to deal with issues as sensitive as labour negotiations between employees at Canada Post and the union?

Ms. Hajdu: Thank you, senator. I don't share your perspective that ensuring that workers have the right to collective agreements and collective bargaining action, including labour disruption, is purely partisan politics. It's enshrined in our Charter, which is why we're having this very serious conversation today. We take our role as a government extremely seriously. As I mentioned in my previous answer, this is not a decision we wanted to have to make. It's with a heavy heart, in fact, that I introduce this legislation. It is also with a sense of responsibility, as a government who knows we have a responsibility to all Canadians, including small- and medium-sized business, vulnerable Canadians relying on Canada Post as their sole delivery agent.

We reject the notion this is partisan politics. This is the difficult job of governing; it is making hard decisions that sometimes anger one group of people and yet must be taken.

I stand by the Prime Minister's statement that we believe in free and collective bargaining. I know the work I've done as a minister, as he's mandated me to do, to improve the lives of often the most vulnerable workers in Canadian workplaces — things like eliminating asbestos from workplaces; passing Bill C-65 through this very house, which provides for workplaces free of harassment and violence, something that every worker should have; introducing legislation around pay equity, around decent work. By the way, modernizing the Canada Labour Code will do things such as provide for three paid days off, something that federally regulated workers currently don't have the right to under the Canada Labour Code.

The most vulnerable workers are the people, by the way, who are cleaning airplanes and transferring people between planes. Those people rely on the Canada Labour Code for their very protections, and they serve us incredibly well every day. Every time I'm getting off a plane and I watch the people getting on to clean that plane, I feel a sense of pride that I'm working for them, I'm working for that person who often is making minimum wage, who is worried when their contract changes hands, whatever little gains they've made will be actually reversed through the new contract holder. We're ending that through the decent work legislation. We're protecting those people in workplaces who have to make the unenviable choice between staying home to take care of an injured child or losing a day of pay.

The Chair: Thank you very much, minister.

Senator Lankin: Thank you, ministers, for being here.

Minister Hajdu, you know me; you know I don't support back-to-work legislation on a principle level. You also know that, in government, I have had to deal with supporting a cabinet decision about back-to-work legislation. I had a little breakdown the other day; it was almost like it was PTSD from the social contract days. I thought I was over it, but maybe not.

I want to say a couple of things before I get to my question.

My heart is on the picket line right now. My sympathies are with the small businesses and consumers who are struggling. I empathize with the situation you're in.

Having said that, this legislation, if passed and if challenged — both of which may well take place — will be judged in accordance with some of the tests that have been set out. I want to say, despite the fact I don't support back-to-work legislation, I have never seen a piece of back-to-work legislation that tries to learn from the court's rulings and growing jurisprudence in the way that this does with respect to setting out the balance of tests.

I've tested that theory in my memory with a number of people over the course of yesterday — professors and industrial relations people who testify at court hearings around challenges on this — and, in general, people agree.

However, that won't be the only test the court will be looking at. The other issue is the necessity of the legislation at this time. The way the legislation is crafted will be incredibly important. The timing of the implementation of it will be as well.

I've read the Canadian Federation of Independent Business statements. I don't mean to be disrespectful of Canadian organizations. Over the years I have seen the same words over and over again from that organization, written before a strike begins, in anticipation of a strike beginning. It doesn't educate me at all about the facts.

I've heard the reference to the 600 tractor trailers with thousands and thousands of packages, and the backlogs. I've heard the unions say that is just not true. I have seen no one go and give us the evidence and that disturbs me.

• (1340)

Respectfully, Minister Qualtrough, I understand that you have numbers you're looking at. Senator Sinclair is looking for evidence, and so am I and I haven't seen the evidence.

I know there are distribution centre issues. I've seen rotating strikes, I've seen high priority essential service delivery agreements — not necessarily workers but agreements about what work will get done. I have seen an employer who, despite the comments that we've heard about a modernized Canada Post, still has atrocious habits of fighting health and safety grievance decisions and pay equity decisions, et cetera.

So I'm left trying to come to a determination about the future judgment of this legislation with respect to the timing of its implementation. Minister, I don't need you to give me the anecdotes. I've heard the letters that you've read. They're heartfelt. I need you to give me, as Minister of Labour — and I appreciate I will come to Minister Qualtrough as well — I want to know how you came to the decision to pull the plug at this moment. For me, that's what it comes down to in terms of how this will be judged in the future.

I think you've done a great job of steps forward in addressing the balance. We'll see. But on the issue of timing, I'm not sure I agree with the assessment that I've heard and I've seen no evidence to support it.

Ms. Hajdu: Thank you, senator. I will let my colleague speak to some of the economic harm impact. But I will tell you that some of the evidence is not only from the business sector — small- and medium-sized business — but from places like the charitable sector. Certainly this is a whole-of-government approach and, as the minister referenced, Finance is working on numbers as well and has had a number of analyses under way.

I will tell you that it's concerning when we hear from the charitable sector as well who, as you may know, rely on this season as one of their most profitable seasons.

Senator Lankin: You're being strategic in picking that sector.

Ms. Hajdu: I actually come from that sector, having run a homeless shelter. It seems like a lifetime ago but really only three and a half years ago. I will tell this house that Christmastime really was a time when we were the most profitable. In fact, many fundraising-supported not-for-profits will say the same. Scott Decksheimer, the Canada board chair of the Association of Fundraising Professionals, says that direct mail continues to be the leading way that most donors give to charity. They're concerned about the donors who typically give in the fall, who might receive their donation requests too late. It's a two-part process. In fact, the mail goes out by the organization earlier, if the organization is organized and has the capacity to actually have a fully functioning fundraising section in their organization. In the case of my organization, we had one person who did fundraising, who did everything.

Senator Lankin: I understand that.

Ms. Hajdu: It is very difficult. They're worried that the donation requests will go out too late or their donations will be received too late by the charity to help people and also, coincidentally, at the busiest time of year for many not-for-profits.

Senator Lankin: May I interrupt you? You talk about they're worried it may not be in time.

Ms. Hajdu: I'm getting to the next part.

Senator Lankin: Honestly, I listened to the whole debate. I heard you read these things. We have the transcripts.

I'm looking for evidence. I'm not looking for the letters of concern and the anticipation.

Ms. Hajdu: I have that. Organizations like the Salvation Army, for example, have said that their direct mail donations are down by 40 per cent. I would consider 40 per cent donation decline evidence.

Similarly, the Mustard Seed in Victoria has said it normally receives 70 per cent of its annual fundraising at this time of year. Their donations are down by 23 per cent. Their director of development said, "our biggest concern is not getting the donations in time. It's nerve-racking."

The stories continue, but these are the kinds of stories and evidence that we've been compiling certainly at the Department of Labour, but obviously it is a joint effort and many other departments are involved in compiling that evidence and have presented that evidence to us to make this decision.

I will turn to Minister Qualtrough.

Ms. Qualtrough: Thank you. I would add, senator, the consequence of closing down international mail, of there being 118 depots across the world that aren't sending mail, packages, parcels and business to Canada. I too have heard that 40 per cent number around charitable donations going down and e-commerce down 20 per cent to 30 per cent. Companies have told us that they have deferred their seasonal hiring because of the Canada Post situation.

We know, quite frankly, that this is ramping up. We've seen this. We've seen the numbers going up over the past weeks. This became the point of no return, the point after which we couldn't salvage for Canadians the business that was at risk and was being lost at the same time.

Senator Lankin: I don't dispute the judgments and how you've come to those judgments. At the heart of this is more the apprehension and concern on the part of businesses and expectations than the reality yet, which I acknowledge can be equally damaging in an economic situation.

By the way, the reason that there are a number of depots around the world that aren't sending their mail is because Canada Post said, "Please, don't do it anymore." So that's a pressure tactic on the part of the corporation as much as the rotating strike is a pressure tactic on the part of the union. Both sides have to have leverage.

Ms. Qualtrough: I can assure you, senator, we are not stopping international mail to put pressure on the unions to settle a collective agreement.

Senator Lankin: Would you clarify something for me? When you say "we" —

Ms. Qualtrough: I mean Canada Post; I apologize.

Senator Lankin: So you're not the corporation?

Ms. Qualtrough: I'm not sure of the legality of the arm's length. Of course, they are an arm's length organization but as the sole shareholder in Canada Post the government has an interest, obviously.

Senator Lankin: Of course you do; you are the sole shareholder.

The Chair: I'm terribly sorry, your time is up.

Senator Mercer: Ministers, thank you both for being here.

Before I get to my question, I want to comment on your mention of Scott Decksheimer's comment about direct mail. It's a very important part. This time of year it doesn't matter which charity it is, the largest majority of the money that comes from direct mail comes between now and the end of December. Having been a fundraiser for 40 years, having been the international deputy chairman of the Association of Fundraising Professionals, I know the data and that is a fundamental concern for a lot of people.

That wasn't my question. My question to Minister Qualtrough is this: Canada Post, like many other post offices around the world, as I mentioned in my comments to the chamber earlier, was at the abyss. The technology changed, the increased use of email as opposed to what we've commonly referred to as snail mail and they were starting to lose money after many years of being a profit centre for the government. Now we have this major labour dispute.

What are the plans for the future to help secure the sustainability of Canada Post? While those people who live in urban centres say they can perhaps live without them, those of us

who live in rural areas — I live in a small village in Nova Scotia — can't live without them. That's a major source of our communications. And we are also concerned about the fact that those people who are servicing us in rural Nova Scotia are not being paid at the same level as those people 40 kilometres away in the city of Halifax.

What are your plans to fix that? I would suggest that this labour dispute that we're involved in now has probably hurt that process because of the lack of cooperation and trust between management and labour.

Ms. Qualtrough: Thank you, senator, and through you, Madam Chair, Canada Post really is at a crossroad in terms of its evolution as an organization that needs to be viable. Two major committee studies happened in the first two years of our government; one through a task force and one through a committee of the House of Commons.

• (1350)

We heard two things very clearly.

The first was how valuable and appreciative Canadians are of Canada Post. I think we would all, certainly us as politicians would like the kind of approval ratings that Canada Post has.

Second, Canadians are wary of subsidizing Canada Post. When we put forth our new vision, we made as a priority both that we focus on innovative service provision that recognizes Canada Post's main bread and butter is no longer mail but, rather, it's parcels. Recognizing we need to have innovative solutions that can be competitive with the private sector companies with whom Canada Post competes because — and I'm sure you'll hear later from Canada Post officials that the profit — when it's profitable — is in the parcels. It's not in mail anymore. But we need to do mail service. We need to keep up with the changing dynamics of postal service provision.

With respect to ensuring postal workers are paid equitably and fairly, I can assure you those discussions are ongoing, that we are absolutely committed to ensuring — certainly with the recent pay equity decision that Canada Post is already in the process of implementing that dynamic is already changing, having significant impacts on rural postal carriers.

We're doing our utmost to ensure everyone has a work environment which is safe and within which they can flourish.

In terms of longer-term viability of the corporation, in some ways the discussions within this particular collective bargaining process, which are both financial and operational in nature, will set a course for this corporation.

If the terms of this agreement send the organization down a certain operational path, it will be very challenging for the operation to be viable. If the terms of this agreement send it down another path, there is a viable economically sustainable future for the corporation.

In some ways we're at a bit of a turning point for the corporation. We have to be very mindful that the good jobs this corporation provides need to be there three to five years from now as well.

Senator Mercer: My final comment, as you go forward with your plans, is to partially quote the Prime Minister. I hope everyone remembers this. This is 2018. And treating rural Canadians differently than urban Canadians is a no go. If you want to appeal to the middle class and those aspiring to be in the middle class, you'd better pay attention to that.

Ms. Qualtrough: Wholeheartedly.

Senator White: Thanks to the minister and the officials for being here.

My question is going to refer specifically to the promised review of Canada Post. Following the 2015 election I know there were a number of efficiencies rolled back, in particular when it came to mail delivery. And it was my understanding we would see a review over the next couple of years. I'm wondering if we can get an update on that review, whether it's been completed. If not, what it looks like in progress. I realize the question is probably for officials, not for the minister.

Ms. Qualtrough: Thank you. I can give you the high level process answer that we did, in fact, as I said, conduct a review. It involved a House of Commons study, a task force and then recommendations to my predecessor who occupied this role before me.

What came out of that and within weeks of my coming into this role, we announced a new vision for Canada Post that really focused on the provision of core services to Canadians. We announced an end to the conversion to community mailboxes. We announced — I'm trying to make sure, Alfred, I've got all the elements of our new vision. Certainly we can get help here from my officials.

The point being, we announced a renewal of leadership, a new board, a new chair. We announced and made it a priority — we directed a new mandate letter to the corporation that a priority for us as a government was renewing the relationship between labour and management. It had been, I think, fractured would be an understatement under the previous government. And there's going to be some rebuilding to do. That rebuilding has been ongoing. I ask that you ask the chair of Canada Post her perception around the collective bargaining, which has been stressful and tense, of how the dynamic has changed within that corporation.

I wish I could tell the story better because there has definitely been a change in how things are going on within the day-to-day side of the operations of Canada Post. That evolution is taking time. But we made that a priority.

Senator White: I'm a little challenged to understand how things have improved and yet we sit here today passing legislation that will force a union to accept arbitration. I wonder if you could explain how that has gone forward.

Ms. Qualtrough: The improvements — as I said, it's about rebuilding trust and rebuilding a relationship. CUPW is in a situation where it is trying to make up ground for previous rounds of collective bargaining and the issues they feel they need

to address. Canada Post has been tasked with a very significant mandate, through me from the Prime Minister, to maintain the financial sustainability of the organization.

While some really creative initiatives have been undertaken around the edges of collective bargaining, having this at play for the past year has created a very tense dynamic at times. I would suggest the parties wouldn't still be at the bargaining table, rolling up their sleeves, slogging it out if the relationship hadn't improved to the extent that it has.

Senator White: Out of interest, are you suggesting you agree with CUPW — that they have complaints to make against Canada Post and their bargaining? Is that what you're suggesting?

Ms. Qualtrough: No, I'm not. I'm repeating what I have been advised by CUPW is they feel they have ground to make up in this collective bargaining.

Senator White: Do you agree with that?

Ms. Qualtrough: I don't think it's for me to make that assessment. What I have mandated Canada Post to do is be fair and equitable in the treatment of their employees.

Senator White: Actually I think it is for you to give an evaluation, since you have more information than we do. We're trying to get the amount of information we can from you so we can make an educated decision.

I think your opinion is valuable to us, otherwise you wouldn't be here giving an opinion. If I may, I'll ask again if you can tell us whether you believe CUPW have legitimate complaints when it comes to the negotiations?

Ms. Qualtrough: Thank you, senator. I think what we have tried to do through this legislation is enshrine principles which reflect the issues at play between the employer and the union in this process of collective bargaining.

I am very comfortable, as the minister responsible for overseeing Canada Post, with the way the employer is treating its employees. I do not sit here — as a human rights lawyer I can assure you I have no concerns that human rights are being violated. I think there's always room for improvement in any employment dynamic. I'm hopeful this will be done through a negotiated agreement between the parties.

Senator Dasko: Thank you. I'm compelled to ask a follow-up question to the questions asked by Senators Sinclair and Lankin about the economic impact of the rotating strikes.

I, too, have been very struck by the anecdotal nature of the evidence brought forward. I know I'm repeating some of what they said. I still feel I don't really have an answer.

The anecdotes of hardship which have been countered this morning before you came here by anecdotes that Senator Lankin gave, in which the union had denied those particular instances of hardship. We're left wondering what is the truth of the various anecdotes that have been brought forward. Also survey results from business groups, which are interesting — of course, I'm

always interested in survey results — but perhaps don't put much meat on the bones in terms of the economic impact. You've had many weeks to deal with this.

There was a reference earlier — I believe it was by Minister Qualtrough — about a report from Department of Finance about the impact of the strike. We only have two days left, apparently, for us to make a decision about this bill. I am very much hoping we can get the economic analysis that was referred to so we can assess that. Because I don't really feel that from what has been said so far that we are really going beyond the anecdotal evidence that we have heard, so I'm very much hoping we can get that. So that's my question to the ministers.

• (1400)

Also I want to touch on saying that such a report would not reveal confidential information about particular employers. That would be a report that would try to assess the economic impact of the rotating strikes, either as they have already occurred, in terms of existing impact and potential impact from the sources of information that you have and that you believe are in fact true and not countered by the stories we hear from the unions, which might suggest that some of those stories of hardship perhaps may not be correct. So that is my question. Thank you.

Ms. Qualtrough: Thank you. If I may, Madam Chair. I wish to assure every senator here that when I advise you that, for example, at one point the peak of trailers that were sitting with unprocessed parcels was at the number 600, that is not a fabricated number. I have seen the numbers over the past two, three, four weeks fluctuate. Right now we're at peak, 600 trailers. Alfred corrected me that the number is around 400 trailers. I have seen photos of those trailers. I have seen the parcels — well, photos of the parcels. Clearly I haven't walked around the trailers, but this is not fabricated.

When we have security concerns that there are warehouses full of trailers and unprocessed mail that we can't bring in mail from other countries, parcels from other countries, it isn't a tactic by either Canada Post or our government to up the ante in collective bargaining. That would be completely irresponsible and just isn't happening.

With respect to the economic impact, the aggregate data shows that some charities have experienced lost revenue and are anticipating more of that. We have had the economic impact of 20 to 30 per cent of e-commerce being lost. We also know from past years what happens in the 30 days before Christmas, in terms of the revenue that businesses bring in relative to the rest of the year, bringing in 40 per cent in this year, and adding to the backlog. The backlog is not going away in two days. I apologize. Please ask Canada Post that because there are so many trailers.

Canada Border Services right now is trying to figure out how we're going to process and bring things across the border once this all gets up and running again how we ensure the safety and integrity and security of packages and parcels. This is a massive undertaking. This is not something that is being fabricated on the part of Canada Post.

Senator Dasko: Excuse me, minister, I did not say that you were fabricating it, I did not say that. So please, what I was saying is that this morning from Senator Lankin we were hearing some anecdotes from other sources that might have given other numbers to some of the stories that we were hearing, so that's what I said. I did not say you were fabricating them, please.

Ms. Qualtrough: I apologize. I just wanted to give you assurances.

Senator Dasko: Thank you very much. I'm essentially following up on questions from Senators Sinclair and Lankin. I'm really looking for a report. We did receive a report on the Charter impact of this, and this is a simple request. The economic impacts of the strike are, in my view, equally important to the Charter implications of this bill. That is really what I think we are asking about. Thank you.

[Translation]

Senator Dagenais: Madam Minister, when you talk about essential services, you always talk about businesses and not citizens. I hope you realize that Canada Post does have competitors, so businesses can turn to other companies in the private sector. For them, your definition of essential services seems far-fetched and unjustified to me, or not sufficiently justified to warrant taking away the right to strike when Canada Post services are not being completely halted. I would like to hear your thoughts on that, and then I have some other questions.

[English]

Ms. Hajdu: The work stoppage, despite the fact that it hasn't been a full work stoppage, has had significant impact on small- and medium-sized businesses, the charitable sector, but also I think to vulnerable Canadians. Certainly we have a responsibility to those communities in often rural, remote and northern parts of Canada that actually have only one service, and that is Canada Post. So imagine a rural or remote community that is relying on Canada Post, not only for goods that we might not consider necessary, but also goods that are often necessary for the functioning of their community for the health and safety of their community members.

So even though the strikes have been rotating, my colleague has spoken about the impacts in terms of the backlogs and the shipping. This is having profound and significant effects on Canadians of all different walks of life, including small- and medium-sized businesses, including the charitable sector that relies on direct mail.

I will also say that despite the fact that there has been an agreement between the union members and the corporation to deliver social benefit cheques, of course with the disruption, in some cases those cheques are arriving late. I personally have had people reach out to me in my own constituency who are concerned because they did not get their benefit cheque in a timely way. Despite the fact that it did arrive a few days later, it can be the difference between maintaining a roof over their head or not, depending on the nature of their tenancy, their landlord or their personal situation. Oftentimes, people are relying on a variety of cheques, government and otherwise; it's just-in-time payment for those folks. They are counting on that cheque, even

if it's a small business owner who has very tight margins. This is a difference between being able to go grocery shopping at the end of the month or not.

So the impacts of the five weeks of rotating strikes are mounting, are significant, and they are significant in different ways, for different parts of Canada and different Canadians.

[Translation]

Senator Dagenais: In your presentation, you said you want to establish a mediation and arbitration process. How can the workers, especially women, trust the outcome of that process when a decision on pay equity was handed down several months ago and Canada Post is still not complying with it?

[English]

Ms. Hajdu: I will speak to the process and my expectation as the Minister of Labour and, obviously, the legal requirements of the corporation to follow the collective agreement. I will say that the process that we have implemented first of all, the members can rely on the fact that there is a big difference in the way that we have written this legislation as compared to the 2011 legislation. The process, in terms of the appointment of the mediator-arbitrator, is meant to be non-partial, to be free of political influence, to be balanced so that the arbitrator has the principles to rely on and will rely on those principles, to take the workers' concerns into consideration as well as the issues of the corporation.

I will say that the principles I pointed out before of the six principles, four of them specifically talk about the needs of the employers as we have heard through various rounds of collective bargaining and in reflection of the mandate of Canada Post to improve its relationship with the members that work so hard every day to perform the functions of Canada Post.

In terms of honouring decisions that have been made, I will turn it to my colleague to speak to that.

Ms. Qualtrough: Thank you, senator. I would absolutely assure you that Canada Post is in the process of implementing the arbitrator's decision on pay equity and that is giving important guidance to the corporation as it moves forward, and informing decisions around structuring work, rates of pay, all the items specifically addressed in the pay equity decision are being worked on collaboratively with the union.

Again, I would suggest that that particular process, the implementation of the pay equity decision, is an example of how that relationship is working, and it's again these processes that are happening in parallel lead one to a conclusion that I think sometimes doesn't in fact fairly represent the good things that are happening as this relationship is changing and as this corporation is coming to terms with the new vision and mandate we have given it.

• (1410)

[Translation]

Senator Dagenais: With respect to the process to ensure compliance with the arbitration decision, what is the justification for Canada Post's failure to comply with the decision handed down on pay equity?

Ms. Hajdu: I'm sorry, senator, but could you repeat the question, please?

Senator Dagenais: You've been talking about an arbitration process since 2011, but this time, it will be written differently. What is the justification for Canada Post's current failure to comply with the pay equity decision? The arbitrator's decision on pay equity is currently being completely disregarded.

[English]

Ms. Qualtrough: Canada Post and the union went through a very intensive process that resulted in a decision by the arbitrator on pay equity. They are in the process — I have been watching this happen — of implementing this decision.

I would implore you to ask both Canada Post and the union what they think about that specific kind of outcome-driven process around implementing this decision. We as a government are absolutely committed to pay equity in every workplace, certainly in those within our jurisdiction, including Canada Post. That is happening as we speak, senator. I can assure you.

[Translation]

Senator Dagenais: My last question is more technical in nature. As the minister responsible for Canada Post, could you tell me what kind of raises Canada Post management will be getting, compared with what the unionized members will be offered?

Ms. Qualtrough: I apologize, senator, I don't have that information. I'm responsible for the process. You can always request that information, and we could get it for you. You can also ask Canada Post for those details.

Senator Dagenais: Roughly six years ago, the annual salary of Canada Post's CEO was \$686,000. I imagine that amount will increase given the higher performance targets, but it would be interesting to know by how much, in order to compare it with what the postal workers are getting.

Thank you very much, minister.

[English]

Senator Omidvar: Thank you, ministers and staff, for being here today. We have been talking quite a bit about evidence and anecdotes. I think both are important. Anecdotes lend to context.

I have here — I think all of us have — an e-mail from a letter carrier from Rimouski, Quebec. I'm just going to read you a little bit of what he has written. He has been a letter carrier for 10 to 15 years. The job has never been more difficult because of the parcels and the weight of parcels. He says the average route in

kilometres has increased, as has the injury rate. As a result, they are being forced into overtime, working late when it is dark and never having time to recover from joint pain. He urges us and you to allow the union to negotiate a true agreement with the company, without giving them the feeling they never have to talk to us. He closes with:

Don't let one week of online rebates destroy the right of expression of 50,000 workers.

Do you have a response for him?

Ms. Qualtrough: Thank you, senator. I would echo my colleague's statement earlier, that we are not proceeding with this legislation lightly. We feel we waited to the point where the parties were at an impasse, where the economic impact was sufficiently significant to warrant this kind of intervention. We crafted the legislation in a way that focuses on a process and outcomes coming from that process through the efforts of the parties with, at first, mediated negotiation and then ultimately arbitration.

My response would be it makes me feel terrible that somebody is having that experience in their workplace. We're doing everything we can to change the culture and ensure that isn't the case.

There are operational challenges with this organization for sure. There is a balance to be struck between negotiating issues of workers' rights and operational decision-making that then removes some flexibility from the organization to be viable. It's a really tough balance to strike. We are not doing any of this lightly.

Senator Omidvar: Thank you. I'm glad you have empathy for what this letter carrier is experiencing. Let me switch tactics and go to a little bit of uncharted territory here, ground that has not been covered so far. This is about international treaties we may be party to. I am not sure about this, but let me ask you the question.

Does this legislation contravene any international treaties we are party to, in particular those we have signed with the International Labour Organization?

Ms. Hajdu: Thank you very much. I was a very proud minister the day I signed ILO Convention 98 in Geneva just a year and a bit ago. It reaffirmed our government's perspective that workers have the right to freely organize and bargain.

From our perspective, this legislation has allowed for that process. As I mentioned in my opening remarks, we have done everything we can to support the parties to come to a negotiated agreement, although the labour disruption has been ongoing for the past five weeks. In fact, we have worked with these parties for well over a year, providing them a succeeding degree of intervention and support, starting off with conciliators, moving to mediators, providing special mediators and reappointing special mediators.

It became increasingly clear the gap between what the union perceived needed to be in the collective agreement and what the employer perceived was their capacity to provide in the

collective agreement was quite large and that the parties were at an impasse. Further mediation, although we were hopeful in maintaining it, was not resulting in any meaningful commitment. That impasse was not going to be resolved quickly or easily. There would be significant harm to Canadians and the economy if we allowed for that impasse to stay in that way.

Really, the movement was extremely small. There was not significant movement. There was no dropping of demands, for example, in any significant way in that we could fairly assess this process was moving forward, albeit slowly, but towards a conclusion.

Here we find ourselves. I reiterate the fact it's with incredible deep regret — I would say dismay — that I'm here today. I truly believe the best deal is a deal the two parties arrive at together.

It's exactly why we have crafted this legislation in the way we have, because we know the parties need help to get to an agreement. We still want to give them an opportunity to mediate that agreement. Should that fail, we want the principles to be there that will take into account the concerns that we heard. As I said, four of them specifically address concerns that were raised through the process that we thought were very significant and needed to be there, as well as the concerns that the corporation has around long-term sustainability, which as you know, directly impacts workers. In fact, the workers want to make sure there are jobs into the future for their members.

Senator Omidvar: I too was very proud when you signed that convention last year.

I'm not sure I heard an answer to my question. Are we in contravention of the treaty that we signed onto or are we not?

Ms. Hajdu: It will be up to others to decide. We are confident in the approach we are taking that we are respecting the collective bargaining process. I can't determine for others what they will decide.

Senator Omidvar: Thank you.

Senator Poirier: Thank you, chair. Thank you to both ministers for being here.

Minister, in answering your previous question, you mentioned this is the right thing to do for all Canadians. I totally agree. In making important decisions like this, we all need to make sure that everybody is treated fairly. It seems there is a group of Canadians who are last on the government priorities right now.

• (1420)

Minister, your government claims to be in support of small businesses, but your actions suggest otherwise. You have increased the CPP and EI premiums. You were late to the game on the matter of completing the former government plan to lower small business taxes, and instead, your focus was on increasing the small business tax burden. Now you have been very lethargic in responding to the serious cost imposed on businesses as a result of the postal strike.

Minister, why does the government continue to put hard-working small businesses always last?

Ms. Hajdu: Thank you very much, senator. I will say that some of the best work we have done is supporting the growth of small- and medium-sized enterprises. As a matter of fact, we see one of the fastest-growing rates of the economy in the G7. We have the lowest rate of unemployment since the mid-1970s. Canadian businesses are hiring.

In fact, as I travel across the country as the Minister of Employment, one of the most frequent things I hear from employers is, "Where can I find more people? I want to grow more quickly, and I can't find the talent I need." All of those statements indicate to me that small- and medium-sized businesses are growing and thriving. We have made massive investments in innovation, community economic development corporation funding and supports for entrepreneurs of all different stripes, supporting Indigenous entrepreneurs, women entrepreneurs. The list could go on, senator.

I will say that we are reducing taxes for small business. We are well on our way to reducing it to the commitment that we made in our mandate.

We are thrilled with the success that we see small- and medium-sized businesses having in this country. That's why this legislation is important, quite frankly, because we know and we respect the voice of small business. We know they are struggling.

Some of the stories I told last night were of extremely small businesses and new businesses. A woman that is in a brand new business finally took the leap this year to conduct her business full time. She left her salaried position to take that leap into the world of full-time small-business owner. Her words ring true for me. This was not part of her plan. She couldn't anticipate this coming and was feeling extremely vulnerable at this time of the year knowing this was going to be her busiest time.

Senator, I appreciate your comments. We'll always stand by small- and medium-sized businesses in this country because we know that they are truly the economic backbone of this country and that without them, in fact, many Canadians across this country wouldn't have jobs.

Thank you for your question.

The Chair: Senator Deacon, Ontario.

Senator M. Deacon: Thank you for being here, including your staff, this afternoon. It is greatly appreciated.

One of the comments leading to my question is from the evidence and anecdotal support we have talked about this afternoon from a Canadian communications and engagement perspective. I think it's fair for Canadians to understand also, so with all of us in the room representing Canadians, it's appropriate and important for the communication of the story to get out there and to get out there right.

We certainly have a big challenge to resolve, and one way or another it will be resolved. This moment and this weekend will pass in our work.

My wonder is about the long-range plan envisioned for Canada Post. As lessons learned, what have we learned? What will be done differently to ensure that we are not perhaps back at the table anytime soon?

Ms. Qualtrough: Thank you, senator. I think that's a very prudent question. We are, have been and continue to spend a lot of time figuring out the best course and path forward for Canada Post and its employees. I can tell you, senator, the nature of this business is changing. Canada Post is reorienting its business model to be and remain competitive so that it can continue to provide these services to Canadians.

I would like to reiterate how much time and emphasis I have personally placed on, through the new leadership of Canada Post, really rebuilding the relationship with labour. That's why it is very difficult to be where we are today, because I think there have been some good strides moving forward.

I hope that we won't be here again. I certainly don't think it's impossible to see a future where management and labour have worked through their challenges and have rebuilt trust in working together. I can tell you, and I hope you hear it in the voice of our new chair and CEO, with whom I have extreme confidence of steering this ship in the right path, that she is personally committed to doing right by Canada Post employees and to charting a path forward for the corporation that balances all the very difficult tasks that we have put at her feet.

Senator M. Deacon: Thank you for that response.

Staying ahead of the curve and anticipating organizational landscapes ahead of us is part of this, but upon reflection from a business organizational point of view, is it a story where disruption and disrupting the organization may not have happened soon enough?

Ms. Qualtrough: That's a good question. I wouldn't want to speculate, but it's not outside the realm of possibility. I think that's why we, as a government, wanting Canada Post to be viable, vibrant, successful and sustainable in the future, we need to understand the operational and business reality of this corporation as a factor, as a contextual element within collective bargaining.

If operational issues are going to be on the table, there is a risk that the corporation will be bound to a certain direction moving forward. I think that some of the complexities of the issues the parties are struggling with are drawing the line between when something is a matter of workers' rights, which is absolutely appropriately discussed at a bargaining table, to when something is a matter of operational decision-making or business practice — an outcome, if you will — that will then take the decision-making out of the hands of the chair, the board and management and chart it through collective bargaining, which is complicated and difficult. Then there is trying to balance that, because there are legitimate issues to be discussed, as they should be, through this process, while at the same time we need a nimble, flexible, responsive and competitive postal service so that we can have these good jobs in perpetuity. Maybe the jobs won't look the same, but we need these jobs. They are very good jobs.

Senator M. Deacon: Thank you, minister.

Senator Plett: Thank you, ministers, for being here. In answering Senator Poirier's question, you talked about how supportive this government was of small business.

The fact is that since October 22, when the rotating postal strikes began, the Canadian Federation of Independent Business has said that the strike has cost the average Canadian business at least \$3,000. Small businesses dependent on mail service delivery have been forced to suspend operations or even close.

How is that supporting small business? Are you more concerned about certain parts of our society than others? I think small business is the makeup of our country.

I've been disappointed in some of the answers here where you are referring to the previous government as their having been the problem. You are in your last year of a four-year mandate, and maybe even in your last months of your mandate, and you are still blaming a previous government for your failures.

Justin Trudeau said he will not do what Stephen Harper did when it comes to back-to-work legislation. The fact of the matter is that Justin Trudeau's father, Pierre Trudeau, probably brought in more back-to-work legislation than any Canadian prime minister in history.

In 1997, the former Chrétien government acted in just 10 days to end a postal strike in that year. That's two days less than what Harper did. Although Harper acted very quickly, it took him 12 days.

• (1430)

I have a few questions, ministers, and the first is about your lack of support for Canadian business. You're not accepting responsibility for your own weaknesses as a government and blaming previous governments for what you have done. Why has it taken your government almost three times as long to act on this issue, given the cost to Canadian businesses?

Ms. Hajdu: Thank you, senator.

The previous government's back-to-work legislation in respect to Canada Post, which was conducted in 2011, was found to be unconstitutional. In fact, it was egregiously unconstitutional.

We are not blaming the Harper government for our problems, although I'm sure that the relationship and style of relationship with the members of the union did not help in terms of the significant challenge that the corporation has in rebuilding trust with its members now. That is why creating a culture of collaborative labour management relations is in the principles. We know this is a monumental task and one that has to be conducted, but the legacy of the Harper government has not made it any easier for the new CEO of Canada Post or any of the executives that work there.

As government, we have a responsibility to balance what the courts have said and what our Charter says to ensure that when we act in ways that infringe on other Canadians' rights, we have evidence and the full confidence that we have the legal authority to do so and that we've done our due diligence.

The \$3,000 figure only came out last week. We have colleagues from within this house who are asking about the evidence. That takes time. Evidence takes time. The accumulation of damage takes time. The estimation of what kinds of damage will occur if the strike goes on takes time.

We wanted to be prudent. I believe that we have by ensuring that the right to collective action, to labour disruption, was respected. But it was beyond inconvenience. We had actual evidence of harm to charitable sectors, to the small- and medium-sized businesses that serve us every day, and to the Canadians that rely on Canada Post in rural and remote communities for essential goods that are shipped there and that they rely on for everyday life.

So, senator, I am incredibly proud of a government that takes those often difficult things to balance — that is, the responsibility to balance the rights of workers to labour disruption and to collective bargaining that includes labour disruption — with the needs of Canadians and restoring a service that is critical to many Canadians across the country.

Senator Plett: You say you were only made aware of the \$3,000 figure recently. I take it from that that you weren't consulting with small business at all to see whether there was any impact because, I'm sure, you were aware that the impact was astronomical, even though you didn't have the \$3,000 figure.

Minister, in the speech of the Leader of the Government in the Senate earlier today, when he was asked about the period of time and what the rush was, I think he said that this has been going on for over a year. Why have we not had more action if this has been going on for over a year? Why are we waiting until the eleventh hour in order to do this? Surely, even this government can figure out that there is something drastically wrong here as we get to September, October and November. As Senator Housakos said in his speech, Christmas comes on December 25 every year.

Ms. Hajdu: Thank you, senator.

The government has done everything that we possibly could have to support these parties to reach a negotiated settlement. It is the right of the parties to reach that negotiated settlement.

Let me reiterate what we have done. Mediators from the Federal Mediation and Conciliation Service started working with the parties over a year ago — at my urging as a matter of fact. I have been urging all parties who negotiate in federally regulated workplaces to start those conversations early and often and to build those relationships together so they can continue to have those difficult conversations.

Negotiating a collective agreement can be an incredibly lengthy job. In an organization like Canada Post, with a variety of different kinds of workers, different collective agreements and different kinds of long-standing issues, we anticipated it would take a long time. That's why we reached out to the parties to accept mediation early.

The Minister of Public Services and Procurement and I both had numerous conversations with the employer and the union to make sure we could urge them to continue to bargain constructively.

When those conversations appeared to be at an impasse, I appointed a special mediator in the hopes that the special mediator, with a fresh set of eyes, a new perspective, would help those parties to continue that hard work and to find a place in which they could agree. I reappointed that special mediator a number of times after talks broke down.

Then, after the work stoppage, we continued to work with the parties, in some cases on a daily basis. When I say that we continued to work with the parties, I mean the Minister of Public Services and Procurement and I had late night and early morning phone calls with both the CEO of the corporation and the head of the union and the union bargaining team.

These are the kinds of efforts that we put into ensuring that we were honouring our obligation to help the parties find an agreement together.

Having said that, we also saw evidence of harm mounting. It's our obligation, as ministers, to take that evidence seriously, to compile that evidence and then to make a decision. When we could determine that an impasse had been reached, we introduced this legislation. That's exactly where we find ourselves today.

Senator Plett: Minister, as you know, in 2013, the previous government — since we've been talking about them — announced a plan that would save between \$700 million and \$900 million from Canada Post's annual cost base. Since your government cancelled that initiative, can you provide — if not today, then in writing — a full accounting of how much more your government has spent on Canada Post than that plan called for?

Ms. Qualtrough: Senator, I certainly don't have the dollar values at my fingerprints here.

Alfred, can we provide that?

Mr. MacLeod: We can provide financial statements from the corporation of their earnings.

Senator Plett: I'm sure there are some number crunchers there that can figure out the difference for us rather than us having to read a complete financial statement.

Senator Wallin: I want to follow up, ministers, with some of the points raised by my colleague Senator Deacon.

As many others have mentioned here today, CUPW and Canada Post have been at loggerheads for decades. Some of us have covered that for a long time. It seems that this culture is unlikely to change in the near future, whether it's management or union.

In 2017, from the numbers that we have, mail delivery was down. At 41 per cent, parcel delivery is up but not enough to quite compensate. If the business model isn't really working, are

we actually at the time to change all of that? When would be the right time to actually consider privatizing Canada Post, to break that mould? Has the new CEO been given a mandate to consider this? Where is that issue?

Ms. Qualtrough: Thank you, senator. The new CEO has not been given a mandate to explore privatization of Canada Post in any way — quite the opposite. We think Canada Post is an important public institution and that there is a viable business model possible for it.

Having said that, we need flexibility in our employment structures and in our business and operational processes to be nimble and to be able to adapt to the ever-changing and often quickly changing competitive environment that is out there. The new chair has a mandate to work with both unions and workers to come up with innovative ways of staying competitive and to determine the best way forward to ensure that and to balance the reality of being in some communities where, as we've heard a number of times today, an essential service with no alternative is being offered.

In other communities and in other big cities, there is strict competition. Sometimes, it's a situation where the alternatives are more flexible and more nimble.

• (1440)

We've given her a monumental task to continue this corporation's viability. I personally think she's up to it. I think we need to give her and her team the time necessary to see what they're going to come up with. I can assure you that, in the meantime, we need to make sure that the mail and parcels get delivered reliably so that businesses can rely on it, that there's not this uncertainty, and so that Canadians, particularly in remote communities, get the packages and the food they need.

Senator Wallin: I come from one of those communities where we don't have all the options of just-in-time delivery and all of that, so I understand the public service nature of this and the importance it has played over years. I just don't see how, when you have a less competitive workforce that is paid more than any of the competitors, you can make this model work.

Ms. Qualtrough: I think, senator, that time will tell. We are absolutely committed to making Canada Post viable, competitive and the service that Canadians need it to be. Canada Post isn't going anywhere.

[Translation]

Senator McPhedran: Ministers, thank you for being here today. My questions for you have to do with how you will be monitoring the mediator-arbitrator's report.

[English]

As one lawyer to another, Minister Qualtrough, my ears pricked up when you said you were very sure that no rights were being violated.

In framing my question, I want to recap some of the points that you made. We know that the government is the sole shareholder of Canada Post. We know that the government does approve

Canada Post's business plans, and we know that, recently, we have a new board and a new CEO. Certainly that's welcome news.

Just yesterday, the National President of CUPW, in bulletin 462, pointed out that:

... postal workers do not have options when it comes to injuries and unpaid work. When management forces more work onto workers and demands they finish in the same amount of time, we do not have an option. When poor staffing leads to forced overtime, we do not have an option. When injuries increase by 43% in two years, we do not have an option. When Canada Post refuses to treat women equally, we do not have an option.

My question to both of you, but particularly to you, Minister Hajdu, is that within 90 days, the mediator-arbitrator will be delivering a report, assuming that the legislation rolls out as is wished. I would really like us to be able to understand better from you on a fast-forward basis. The six guiding principles outlined in the bill are definitely an improvement over anything we've seen before, as Senator Lankin noted, certainly in any back-to-work legislation that she's ever seen. However, we do have this question of implementation. Guiding principles are principles. There will be a process in which you're not directly involved that will generate an agreement, and then there's a report coming to you.

Could you please talk to us about what you as ministers are prepared to do to ensure the implementation of these guiding principles?

Ms. Hajdu: I'll turn to my official.

Anthony Giles, Assistant Deputy Minister, Employment, Workforce Development and Labour: Thank you very much for the question. The whole principle of the back-to-work legislation is that the government won't interfere in the way those principles are applied and the decision-making process. It will be entirely the arbitrator, if it gets to the arbitration stage, to use his or her judgment on how to balance the new collective agreements against all six of those principles.

Senator McPhedran: Thank you. That's exactly why I'm asking the question. Should I say a bit more about why?

Ms. Hajdu: Should the collective agreement at any time not be honoured, complaints can be filed with the Canadian Industrial Relations Board. They are heard, there is a decision rendered, and there can be, up to and including, fines and grievances.

I take my job as Minister of Labour very seriously in that regard. I believe strongly that collective agreements are there to guide the behaviour of the employer and to protect the rights of the employees as negotiated fairly.

I certainly have given my department every indication to take those complaints seriously and to expeditiously deal with those issues.

We've increased capacity for the Canadian Industrial Relations Board to work to its fullest capacity. We also have an entire inspection team that works based on complaints.

I would say that it's a big part of what the department of labour does, monitoring any kinds of complaints around collective agreements that are not being honoured.

Senator McPhedran: Yes, but my question was really on a slightly different angle than the answers so far.

Let's just say, hypothetically, that we end up with an agreement that forces the postal workers back to work, but, in fact, the guiding principles are largely not honoured in that agreement, for whatever set of reasons.

My question is geared to your oversight, your responsibility, your leadership as ministers vis-à-vis a scenario like that, where you have some clear indication that, for whatever reason in the end, the agreement has not incorporated the guiding principles that you set out.

Ms. Hajdu: Apparently, it would be for the parties to then go to court to determine. If a party felt that those principles hadn't been adhered to and they couldn't see those principles reflected, they could challenge that legally.

Senator McPhedran: What would you do if you reached the conclusion that, for whatever reasons, the agreement that was generated as a result of this bill did not implement the guiding principles that you've set out? Is there any action that you would contemplate or you would be prepared to talk about today that you would take?

Ms. Hajdu: There's no legal action that I could take. However, I am confident in the process of the independent arbitrator-mediator to be able to be free of interference from government. I think that's a big part of making sure that the principles are adhered to. There won't be undue pressure from government to weigh in heavily on the side of the corporation or on the side of the union, but to really adhere to those principles.

That is why it's more than the principles. It's also the approach to selecting the mediator-arbitrator that's so important. It is truly to be someone who is non-biased, who is not connected to the government, who is determined by the parties together, and failing that, that is recommended by the Canadian Industrial Relations Board.

From my perspective, that will protect the principles. That will allow for that arbitrator to do his or her job in a way that is free of influence or interference from the government.

Senator McPhedran: I want to check to ensure I've understood the answer correctly. What I was asking was in the event that the principles are not in the agreement or not substantially in the agreement, what I'm hearing from you is that there would be no further action, commentary, anything from the ministers because it would be an agreement. Therefore, only the procedures that are in place for agreements, even if those agreements are sadly lacking, would roll out. So you're gone from this scenario once this bill is passed.

Ms. Hajdu: To be fair, there's little that can I do at that point, because we have appointed a mediator-arbitrator to do this.

I will say that during the time I've been the Minister of Labour, the mediators and arbitrators that I have met take their role incredibly seriously. The reason why is that the future trust of their services relies on them being impartial. In fact, if a mediator is perceived not to be impartial, their opportunities for employment, new contracts — these are, by the way, very lucrative contracts — decline significantly.

• (1450)

I have been incredibly impressed with the balance of, for example, the special mediator whom I have recently appointed. I did not know him at all. I was amazed at how difficult it was to compile a list of mediators with that level of expertise in this country — perhaps a bit naive for the Minister of Labour, but let's remember that I've done this job for only 17 months. I don't come from those circles of mediators that are esteemed at that level.

However, I will say that even within the federal mediation service, our federal mediators are extremely careful to be free of bias and influence, because their credibility for the next deal they work on relies on the fact that their reputation remains unimpugned.

It gives me comfort, as the Minister of Labour, that we will be doing this through a non-biased process, with mediators that I likely will never have heard of who will be appointed to a position of great importance and high visibility and who will be relying on their balance as evidence of their great work for future contracts.

The Chair: Those are all the questioners I have on the list.

Ministers, on behalf of all senators, thank you for joining us today to assist us with our work on the bill. I would also like to thank your officials.

(The Committee of the Whole was suspended.)

• (1500)

(The Committee of the Whole was resumed.)

The Chair: Senator Harder?

Senator Harder: Honourable senators, I would ask that, pursuant to rule 12-32(5), Jessica McDonald, Chair of the Board of Directors and Interim President and CEO of Canada Post, be invited to participate in the deliberations of the Committee of the Whole.

(Pursuant to the Order of the Senate, Jessica McDonald was escorted to a seat in the Senate chamber.)

The Chair: Ms. McDonald, welcome to the Senate. I would invite you to introduce yourself for the record and then to make your opening remarks.

[Translation]

Jessica McDonald, Chair of the Board of Directors and Interim President and CEO, Canada Post: Madam Chair, thank you for inviting Canada Post to participate in this important discussion on Bill C-89.

[English]

My name is Jessica McDonald. I'm Chair of the Board of Directors and Interim President and CEO of Canada Post. I would like to share a few comments I hope will be helpful to our discussion today. I'll then be happy to take all of your questions.

I understand we are here today as efforts over the last 11 months to find the common ground necessary to reach negotiated settlements with the Canadian Union of Postal Workers have been unsuccessful.

I want to start by taking a few moments to outline the extensive efforts we have taken to reach a negotiated settlement with the union. I also want to reassure you all decisions made by the corporation have been with our employees in mind.

[Translation]

I want to start by taking a few moments to outline the extensive efforts we have taken to reach a negotiated settlement with the union. I also want to reassure you that all decisions by the corporation have been made with its employees in mind.

[English]

Negotiations officially began in January of this year. Both parties have remained at the table since that time, holding lengthy discussions, identifying issues and sharing ideas. Both parties agreed to move to a common off-site location in June to expedite the negotiations and have remained there since.

We've tabled numerous offers that are fair, reasonable and respond to the union's concerns in a meaningful way. With each offer, we've made significant moves to recognize our employees' contributions and further address the union's concerns.

In doing so, we have had to reach a difficult balance because we also have an obligation to keep the postal service financially viable, which is a significant issue not just for the long term, but in our very immediate future.

With our repeated efforts to reach an agreement failing to meet the expectations of the union and the sides remaining far apart at a time of increasing urgency with deliveries backlogged, customers searching for alternatives and the company experiencing significant revenue loss we tried numerous last-ditch efforts to find a way forward.

This past Monday, the last day of our logistical experts calculated we could still deliver the holiday season for Canadians, we offered a process that asked the union for a cooling-off period, with operations resuming in time for the backlog to be cleared out.

We would have restored full benefits under the current collective agreement and would have agreed to renewed mediation under a jointly agreed mediator that would have extended until the end of January. We would have provided a \$1,000 bonus for employees in recognition of the compromise this would represent for them. We would have continued the free collective-bargaining process and negotiated until the end of January, then moving to binding arbitration if we didn't reach an agreement.

When the union rejected it on the basis of the binding arbitration, I understood the significance of their concern and immediately removed the aspect of binding arbitration.

This option would have avoided the situation we're in now. It would have continued free collective bargaining for a significant additional period, with employees recognized for making that choice, that compromise, and with Canadians and small businesses able to receive the critical supports they rely on in this important period. It would have avoided this entire exercise.

I want to be perfectly clear: I didn't want to be here discussing back-to-work legislation. I have tried every other way forward until every option was exhausted.

With every offer we have committed to forge a new working relationship with the union, where we discuss issues that are important to employees on a regular basis and identify and action real solutions, not just during collective bargaining. This is something I'm personally committed to and continue to be as it is fundamental to the long-term viability of the corporation going forward.

We agree with many of the issues raised by the union. While we have put forward short-term solutions at the table, real long-term solutions will only be found if we work together.

The health and safety of our employees is incredibly important to me and everyone at Canada Post. The shift from mail to parcels has been a game changer. Our dedicated employees deserve to see their employer and their union defining a new vision for the changing work and building new, better solutions together that ensure they aren't overburdened and helps to continually improve the work-life balance of workers.

When I joined the company about a year ago, and subsequently stepped in to president and CEO about nine months ago, I reached out to all unions personally to understand the views and perspectives and establish a direct relationship. This was not only something asked of me in my mandate letter from the minister, it's something I personally believe in.

As a result, I've had many discussions with the union executive. Some discussions have been informal, while others more formal, all in an attempt to improve an employer-union relationship. I have found these discussions to be led by passionate, dedicated and experienced people on behalf of the union. I want to continue this dialogue and work together in a relationship that's defined by openness, equal voices and a desire to solve problems together.

There have been many years of conflict rather than collaboration. We have a lot of building to do to get to a new place where we are agreeing on a common vision and resolving our differences between bargaining rounds rather than upon the expiry of each collective agreement. However, we are not there yet.

The unfortunate reality is despite extensive efforts over a long period of time, we have not been able to find the common ground needed to reach agreements, resolve negotiations and return to normal operations.

The Canadian Union of Postal Workers has now been conducting rotating strikes across the country for more than 30 days, hitting virtually every community and all 16 million addresses across the country.

Our employees have continued to deliver where the union isn't conducting strikes. The strike action has taken a severe toll on our ability to deliver.

Our three largest processing centres, in Montreal, Toronto and Vancouver, have been shut down repeatedly by union strikes for extended periods.

• (1510)

Our integrated national network is built to accept mail and the bulk of Canada's parcels, process them and send them out for delivery. Any disruption has a major impact, but the cumulative impact of the ongoing strikes have severely compromised our operations at our busiest time, which is having significant impacts far beyond Canada Post. It impacts communities across Canada, small and large, including remote and Indigenous communities without other options.

We continue to see backlogs of trailers at our main processing facilities. As of this morning, there are 391 trailers full of parcels and packets waiting to be unloaded. At this time of year, it would be typical to see a quarter of that as we prepare for the oncoming rush.

In addition, the union's ban on voluntary overtime and using seasonal workers means we aren't able to keep pace by delivering on weekends. Last year we delivered 3.6 million parcels on holiday weekends. Over this weekend, we had planned to deliver over 500,000 parcels to Canadians to ease the burden this week. We now expect to deliver a small portion, 30,000 parcels, which will further add to the backlog across the country.

Where do all these parcels come from? Partly from large Canadian retailers, but a large portion comes from the 200,000 small businesses across the country that we serve.

The holiday season is critical to Canada's retail sector, especially the smaller, independent retailers. What they have had to hear from us is a very hard message. We have had to suspend our service guarantees and advise customers to expect long and unpredictable delays through the holidays. Some large retailers have already left Canada Post or shifted volumes to other parcel carriers, taking up any capacity at other carriers. Small businesses are still shipping with us because they have nowhere

else to go. It is these small businesses and their employees that will be hit the hardest financially by delivery delays, refunds and cancelled orders.

The economic impacts on the Canadian retail sector will ripple far beyond the holiday season. It will also be felt by many charities that raise a large portion of their much-needed funds through the mail at this time of year.

We understand the impact this situation is having on Canadians across the country. We have made every effort to respond to the union's concerns, reach an agreement and avoid impacting our employees, customers and Canadians.

The postal service is an important Canadian institution that continues to play a much-needed role in our economy. I understand that. I want to reassure you, on behalf of the board of directors and everyone at Canada Post, we will work hard to build a strong and much-improved relationship with the union.

We remain committed to working together with the union to build a strong postal service for our employees and the many Canadians who depend on us. I'm happy to answer your questions.

Senator Smith: Thank you very much for your presentation and welcome. I would love to meet you on a better situation than today.

In listening to your presentation, and having spent a little time in business over the years, it would appear that you're working in a long-standing historical relationship where there is no trust. Trust is the first part of building any relationship. It is part of the sales process and selling ideas before you can find out what people really want. They have to trust that you will be trustworthy.

As you look at this situation — because you have, I'm sure, a myriad of problems, including the business model, economics, the whole deal, which is another historical reality of Canada Post — do you have an actual plan that not only deals with this history, but how do you deal with building trust, knowing that it's going to take time to build trust? What are your key steps? Is this the number one or whatever strategy in your top five that you're working on to figure out how to get through the mess and move forward?

Ms. McDonald: I completely agree that without trust there can be no real lasting solutions. I also think that without arriving at a meaningful new relationship with employees and with the Canadian Union of Postal Workers, in particular, there can be no successful future for the corporation.

As difficult as these discussions are for both parties, we have to remain committed to finding a new path forward. There is just no question about that in my mind.

Canada Post is experiencing a time of major disruption and transformation in terms of the services that it provides. That brings uncertainty and challenges for workers in terms of ensuring that the workplace is supportive, respectful, safe, healthy, and that jobs are rewarding. That's a picture that we

have to be able to work on together in terms of designing what the future needs to look like for this transformation from letters to parcels and packets to be successful.

As I have spoken with the union, and as I have said, I have the greatest regard for the union and its executive leadership. I understand the interests that they are advancing, and I wish we had found it easier to this point to find the common ground that could represent real solutions. In many ways, being in the middle of a collective bargaining round is the most challenging time to redefine a relationship and build trust. Nonetheless, that's the mountain we have to climb together and somehow find the answers to.

To your actual question of how you build trust, it has to be by sharing open information, by recognizing that there is expertise and knowledge on the other side of the table, if I can put it that way.

Management can't be in charge of all the answers; they have to be answers built together. We have to try some things together, but there has to be a reason to believe that trying things leads to carrying on and implementing solutions together.

I know there has been, historically, a very difficult relationship. As I say, it can be tremendously difficult to redefine and establish trust right in the middle of a round of collective bargaining. It has to be by continuing to listen, continuing to present ideas, continuing to find that common ground, being open and transparent, and being willing to let go of past positions, listen to the question and the issue again through fresh ears and to look through fresh eyes and try to find the answer.

That's what you have to do during a round of bargaining like this in the difficult relationship that exists and moving out of it, there has to be a genuine, complete change in terms of how we interact and work together to define a future that we both agree is going to take us in a different direction rather than just to the next round of collective bargaining.

Senator Smith: I feel for you because, if I understand correctly, you have been in the slot for nine months in terms of the job. One of the things that you always do when you get into a new opportunity is to try to figure out the alignment of your organization.

It can't be just a CEO who espouses the virtues and values you would like to share, but it's the alignment within your organization. As you gain more experience within this organization, are you keying up the alignment you need to start this cultural change? It will take time. They usually say three to five years, and it depends on how good you are and how good a team you have to implement that trust factor or conceptual change. How do you feel about what you have within your organization?

Ms. McDonald: I believe there are very strong and committed people in the management ranks as well as among the employees and the representation of union leadership and to the management ranks in particular. Leadership comes from the top, and we have been exploring different ways of engaging different processes to open up conversations in different ways. I have given direction in a few instances to immediately break through

some issues where there have been long-standing impasses, and management has seen the path that that points to. There has definitely been a recognition that together we're designing a different way of approaching the union. I don't have any concerns regarding the ability or the desire and commitment to get to a different place, what it takes is the effort and the time to be able to find these solutions together.

• (1520)

Senator Smith: At this particular time, do you feel that the messaging is getting out? Because obviously, if there is disruption, it sort of insinuates that the message isn't getting through or some messaging isn't getting through. Do you feel that you have the basis of setting up the proper system so that messaging gets out to the union and the employees?

Ms. McDonald: I have written directly to the union to speak about some of the issues that have been long-standing areas of conflict and created stress in the workplace. I'm communicating directly, so I believe, yes.

Senator Smith: Thank you.

Senator Sinclair: Thank you, chair. I pursued a number of issues with the ministers when they were here that I'll raise with you that may not have been answered properly or adequately for my purposes.

We have been told of the anecdotal evidence of the impact upon businesses. I think you have cited some data today, but I was told that there is a study that has been undertaken by the Department of Finance with regard to the impact that the withdrawal of services by the union strike is having upon the business community and the economy generally.

Do you have access to such information? Do you know of such information? Is it factored into your thinking? Can you share that with us?

Ms. McDonald: Thank you for your question. I couldn't quite hear the name of whom you said the study was being undertaken by.

Senator Sinclair: The Department of Finance was the reference that I heard here.

Ms. McDonald: To answer your question, I don't have access to the Department of Finance's work. What I can tell you about is from my own position and the exposure that I have on a daily basis to the impacts. So perhaps I could start there and if you have a follow-up question I will be happy to address that.

I can tell you that I am on phone calls twice a day, then meetings pretty much all day long right now, understanding the impacts in the system. The phone call this morning was very specific in terms of where we stand today.

At 8:30 this morning, we had 391 trailers in different locations. That's almost a million parcels and packets sitting unloaded at the moment in the system. That's before we have the large influx of orders that are fulfilled by retailers in this very busy holiday season, this Black Friday to Cyber Monday period. Over that 72-

hour period, there is anticipated just from two of the largest retailers alone about 300 more trailers coming into the system. As you well know, this is the busiest time of the year.

While we do have a significant number of trailers sitting unloaded and more coming into the system, I'm also aware that we are experiencing about a 30 per cent reduction over the estimates that we had for this year, over the 72-hour period. That's another very specific indicator for me in terms of the impact that is happening, either to Canada Post or to retailers or both in terms of the volumes that are occurring as a result of this uncertainty during this major shopping period.

While the rotating impact on the integrated system from a one-, two- or three-day stop of activity in major processing centres like Toronto, Montreal and Vancouver have downstream impact across the country, I think it's also important to recognize that the system doesn't instantly get up and running again. It actually perseveres in other parts of the country, and it has been very slow getting mail, parcels and packets across the system, even when a particular location gets operational again.

I mentioned earlier that weekend delivery is particularly important during this holiday season, and I mentioned statistics earlier that because of no overtime hours and temporary workers coming in to clear out backlogs on the weekends, we would have expected to move about 518,000 parcels and packets. Instead, we will be moving about 30,000.

Our international volumes have had to be held. I know that there has been some media attention on that, and this morning, numbers confirm that we have 80 what is called "monos" being held in the Netherlands. A mono is one of those large containers that goes on to the airplane, and 50 monos would be a tractor trailer, so 80 monos are being held in the Netherlands and 180 monos are being held in Germany. There are 25 tonnes of mail being held in Australia, 20 tonnes in China. There is a significant backlog occurring throughout the system. These are very specific numbers in terms of what we know is not moving through our system.

I don't know if that helps you in terms of the evidence that we are directly experiencing, even if I don't have direct access to a Department of Finance analysis that may be occurring.

Senator Sinclair: It certainly helps me understand that the withdrawal of services is having an impact on the ability of Canada Post to do its work. But that's the nature of withdrawal of services. It's the nature of a strike. Strike has that impact. It's intended to have that impact.

I don't understand why, when it's having the impact that we understand legislation gives them the right to strike, and the Charter gives them the right to strike, when it suddenly has the impact that was intended, we are being asked to interfere with that right and put Canada Post in a position where the union loses all of the power that it has by virtue of its loss of the right to strike, and Canada Post can simply go on having its affairs run normally.

Maybe you can tell me in what way this legislation will have an impact upon the ability of Canada Post to do its work other than the fact that you will have a union that has no weapon at its disposal.

Ms. McDonald: Could you repeat, "other than a union"? I couldn't hear the words.

Senator Sinclair: Other than a union, it will not have its weapon, its right to strike, at its disposal.

Ms. McDonald: Thank you for the question. I want to repeat that being in this situation of back-to-work legislation is the last place that I want to be. Our negotiators are still at the table right now.

As I mentioned on Monday of this week, I offered the last ditch effort I could think of to the union to keep mediation going, and hoped to get to some kind of agreement while we at the same time tried to get the system moving and tried to get into a situation where we alleviate for Canadians and for retailers the impact during this holiday season.

And I was disappointed, even after removing binding arbitration, which I do understand was a showstopper for the union, that proposal wasn't a possibility. I have tried everything I can.

At the same time, we don't stop trying. Every single day, we are working at the negotiating table trying to see if we can continue to find a way through that. Those efforts will not stop if there is an introduction of back-to-work legislation, and if I could have found any other opportunity for continuing the voluntary mediation for a longer period while also getting some movement through the system that could have enabled us to deliver the holiday season for Canadians, I came up with every idea I could think of.

Senator Sinclair: Short of reaching an agreement with the union, obviously.

Ms. McDonald: Which is the goal for both parties.

Senator Sinclair: One of the issues that has been raised throughout the history of this legislation is the fact that Canada Post has a long history with parliamentarians and Parliament generally, including the Senate, of turning to the Senate for back-to-work legislation in several of its labour disputes. This is the third, fourth or fifth time, depending on what data you look at, that Canada Post has required back-to-work legislation.

Is that not an indication of a failure of management?

Ms. McDonald: I think over the last four periods prior to this one, in two other instances, legislation has been turned to as a solution by the Government of Canada.

I would agree that there is a failed relationship between the union and Canada Post. I would agree, and I will say again, that it is imperative that we find a different way forward. It's imperative we work together to design a future that can work for workers and for the corporation as the nature of this business

continues to change and create uncertainty for workers. At the same time, there is a very challenging financial picture for the corporation.

• (1530)

I could not agree more that it is critical and imperative for a new relationship to be developed that is meaningful, that designs the future together and that finds answers between rounds of collective bargaining rather than being in the situation that you refer to, which has happened more than once in the past, where legislation is turned to by the Government of Canada as a way of alleviating the impacts of a lack of an agreement.

Senator Sinclair: My understanding is the union and Canada Post had worked out an understanding with regard to those deliveries that were necessary, and the union was in agreement with Canada Post that they would participate in a process to deliver necessary mail and packages.

The Chair: Sorry, senator, your time is up.

Senator Sinclair: Thank you, chair.

Senator Joyal: Welcome, Ms. McDonald. When did you contact the responsible minister to request special legislation or back-to-work legislation?

Ms. McDonald: Thank you for the question. I have never requested back-to-work legislation.

Senator Joyal: When did you first speak with the minister about the legislation?

Ms. McDonald: The suggestion that back-to-work legislation could be an inevitability has arisen over a period of time. I'm unable to think of when the first suggestion might ever have been raised.

As another honourable senator mentioned, back-to-work legislation has been introduced in the past and has been on the minds of many as we continue to not be able to find a negotiated settlement. However, I cannot pinpoint a date when I understood clearly that would be a decision by the Government of Canada until the date it arrived as a notice on the Order Paper.

Senator Joyal: Let's be clear, Ms. McDonald, and not circle around. Let me go back to your statement.

I find it hard to believe you cannot put a date on such an important issue as that. You know it would have an impact on the relationship with the union. I'm not satisfied with your answer that you can't recollect such an important element into the administration of Canada Post. Could you be more precise, please?

Ms. McDonald: Honourable senator, I apologize. I was having technical difficulties on my end. I didn't hear your full question. I understand you're under a time constraint, but would you mind repeating the first part of your question?

Senator Joyal: Yes. When were you in contact with the government representative or the minister's office or anyone on the government side that you were considering the impossibility of arriving at an agreement with the union and that special legislation would be the only way out?

Ms. McDonald: Thank you. It has never been my decision that back-to-work legislation needed to be the way out, as you put it. As recently as this past Monday, I have been trying other approaches myself to try to find a way through this, where we could continue bargaining but alleviate the impacts on the system during this holiday period.

If you're asking me on what date I asked for a back-to-work legislation, the answer is that has never occurred. This is not my request.

Senator Joyal: You never informed the government on the progress of the negotiation and you arrived at a point where there was no movement between the two parties?

Ms. McDonald: That I have a different answer for, for sure. I have updated the government on a regular basis on the efforts in bargaining. I have also been responding on a regular basis to both ministers, both my own minister and the Minister of Labour, as they have called and pressed on the issues and the status of bargaining. I have regularly both responded and given updates. It has been a very challenging period of bargaining.

As you well know, it's been almost a year of bargaining. Through that we've been through a mediator, a conciliator and a special mediator several times. All of that has moved from milestone to milestone under very difficult circumstances where very little, to be frank, progress has been made at the negotiating table.

Having said that, I have not given up. There will be new collective agreements. I would like to reach those through bargaining. It's becoming ever clearer it needs to be assisted bargaining in order to get there. I hope we can get to agreements prior to the binding arbitration outlined in this legislation as the last effort.

I fully agree with many statements that had been made, that the relationship, to have its best shot at moving out of this bargaining period and into a different future, would have its best potential if we can finally reach agreement at the bargaining table. I will not stop trying to do that, even if legislation is introduced and we're operating under mediation set out in the legislation.

Senator Joyal: Were you consulted by any of the government representatives on the substance of the legislation?

Ms. McDonald: No.

Senator Joyal: Never?

Ms. McDonald: No, I have not been consulted on the substance of the legislation. I read it for the first time when it became available on the website. I read it on the website.

Senator Joyal: What do you think will be the impact of the legislation in your capacity to establish a sound relationship with the union in relation to Canada Post?

Ms. McDonald: Honourable senator, I am going to continue trying, with everything I've got and everything that Canada Post has, to get to a negotiated settlement. The legislation, if it's introduced, will set out more defined processes that we're working through. It will not change in any way the level of effort and creativity we will continue to bring to the issues that are at an impasse at the bargaining table.

Senator Joyal: When you informed the government of the progress of the negotiations or the stalling of the negotiations, at which point were you of the conclusion there was not enough movement to maintain the possibility of an agreement?

Ms. McDonald: Honourable senator, I have not reached the conclusion we cannot get an agreement. It has been difficult, for sure, throughout the course of bargaining. There is a very big gap between us and the union on a number of issues. I agree with many of their issues. I have been unable to agree to their particular solution on a number of issues.

I am not in any way giving up on finding a solution that can represent common ground on the outstanding issues. I have not and have never reached the conclusion it is not possible to reach an agreement.

Senator Joyal: During the period through which there was mediation at the end of 2017 and the beginning of 2018 and then arbitration and then mediation again, the general comments made by the union representative were, in fact, Canada Post was not making any real effort to reach an agreement, that in fact, Canada Post was rather slow, not really responsive to meetings and didn't come to meetings with any significant proposal to ensure there would finally be common ground. How do you react to those comments?

Ms. McDonald: I respect that is the perception and opinion of the union. As I have said before, the process of reaching resolution on issues has been very slow. There is a very large gap between the parties on the issues.

I believe there are very different opinions as to what particular solution represents a place for agreement on the issues. While Canada Post has offered different ideas, different solutions to try to get at the core concern at the bargaining table, it hasn't been possible to deliver the particular solution the union has asked for.

• (1540)

I can appreciate that is frustrating for the union. I would not agree that Canada Post has not put all of its effort into trying to find solutions that could represent common ground.

Senator Joyal: How many meetings took place during the mediation period of the first part of 2018, before it came to an end at the end of June? How many meetings took place between Canada Post and the union during that first mediation period?

Ms. McDonald: Honourable senator, I don't know the number of meetings. I didn't bring that with me.

Senator Joyal: For the subsequent period of conciliation, do you know the number of meetings and the kind of progress that was made in those meetings? No progress at all was registered during that period of time?

Ms. McDonald: I didn't ask for a tally of meeting numbers per month. I'm going to be unable to answer those questions. To get at the core of the second part of your question, there has been progress on a number of issues. There is a broad list —

The Chair: I'm sorry, Ms. McDonald, the time is up.

[Translation]

Senator Dagenais: Ms. McDonald, I would first like to know what experience you have in labour relations and negotiations.

[English]

Ms. McDonald: My personal experience?

[Translation]

Senator Dagenais: Yes.

[English]

Ms. McDonald: Thank you. I have had interaction over a number of years with public sector unions. In my past, I was a deputy minister in the British Columbia government and was also the head of the public service of the British Columbia government for about four and a half years. Over that period, most of the public sector organizations came up, had expiration of agreements, and I was deeply involved in the development of negotiating mandates. I was also personally involved in the final resolution of some disputes.

Beyond public sector bargaining strictly, I have a background in mediation. I have spent many years personally leading mediation in other circumstances that have parallels from my perspective in public sector bargaining.

[Translation]

Senator Dagenais: I do not have to tell you that rotating strikes are a right in the bargaining process. Do you agree that, when pressure tactics increase, that means that talks have stalled?

[English]

Ms. McDonald: That can be. If you're referring to the rotating strikes being an effect of frustration, I would agree with you. That's a pressure tactic because an agreement has not been reached.

[Translation]

Senator Dagenais: You said that there has to be good relations between management and labour in the bargaining process. If special legislation is passed, it will be difficult to ensure that workers are going back to work in an atmosphere of trust.

[English]

Ms. McDonald: Yes, I agree with you the circumstances we find ourselves in have all kinds of knock-on challenges, if I can I say that. I have made a very specific decision from my role as interim CEO to not introduce any pressure tactics, to use your term, that would heighten a breakdown in relations between the union and other employees who also observe what's happening during this period of impasse.

For example, I have not introduced any measures like what is called staffing to workload, which is reducing the numbers of employees who are actually needed at facilities at a time when very little is moving through, when they are hit by strike activity.

I have never considered a lockout, for example. It has been my perspective that at the end of the day we, first of all, have to find our way through this; second, when we are through this, with agreements, there has to be a rebuilding. A particular focus of mine has been to set a tone of understanding and continued strong efforts to try to work through this and get to the agreement that is so needed.

[Translation]

Senator Dagenais: I would now draw your attention to a binding arbitration decision recognizing gender parity at Canada Post, which I do not believe has been respected or implemented yet. Do you believe that the Trudeau government's special legislation, which covers this aspect, will absolve you of your obligations in that regard? At this point, an arbitrator has ruled that gender parity must be respected at Canada Post.

[English]

Ms. McDonald: Thank you for the question. I'm not certain I understood the core of your question. I'm going to give an answer; and if I haven't answered you, please follow up.

Madam Flynn, the arbitrator, has recently ruled on the issue of pay equity which has been a long-standing issue at Canada Post, as you know, without elaborating, due to the different systems of work between rural and suburban and urban employees.

I feel, personally, it was very important to bring that decision to closure, to have somebody independent, who thoughtfully spent time working her way through all of the issues arrive at final decisions as to what represents pay equity for Canada Post. It is fundamentally important that Canada Post as a public institution respects rights, including the right to gender equality.

That decision is being fully implemented by Canada Post. There is no disagreement with any aspect of her ruling. We are working together with the union in a structured process to ensure it is fully implemented as quickly as possible. I know Madam Flynn remains seized of this ruling in the event any difference of opinion arises in the implementation.

[Translation]

Senator Dagenais: I have a question about precarious work at Canada Post. We know full well that it's important to have a stable job. Sometimes people have to take out a mortgage, and for that, they need an annual salary.

Why have some Canada Post employees been working there for 10 or 15 years without being offered a permanent position? Precarious work is one of the main issues in the negotiations with respect to gender equality. There needs to be respect for the middle class. Mr. Trudeau has been talking about these issues for three years. What is the problem with respect to precarious employment?

[English]

Ms. McDonald: Thank you. Canada Post has a mixture of employees represented by the Canadian Union of Postal Workers — full-time employees, part-time employees and temporary employees. Without getting into all of the matters that are subject to bargaining, the issue of staffing ratios as well as issues around terms and conditions for temporary workers are at play.

It is very important for us to have a mixture of employees as part of the system. As you can imagine, being a company that has been successful at becoming the primary parcel carrier for Canadians delivering two out of every three parcels in Canada means we have to be able to deal with the peaks and valleys of the demand, as opposed to sitting back and taking the reliable, static part of that business that our competitors plan. As a result, we do need temporary employees to help us on a seasonal basis, to help us with overtime, to help with relief. I think these are the employees you referred to as finding themselves in a precarious situation.

It is important to us there is a strong employment offering for those workers. As part of that, there is a necessity to be able to give more predictable scheduling to those temporary employees so they can manage their lives and understand how they will be paid and how they can rely on the work.

• (1550)

There are issues with respect to that at the bargaining table right now. The fundamental principle is we need to be able to support employees in achieving work-life balance and having choice. At the same time, being able to schedule so there is an ability to staff what can be a very fluctuating and fluid level of volumes through the system.

[Translation]

Senator Dagenais: I have one last question. I asked the minister responsible for Canada Post about the CEO's salary and whether there are performance bonuses. So, what's your salary, and are you eligible for performance bonuses?

[English]

Ms. McDonald: The salary for a CEO at Canada Post is publicly posted. It's level 8 on the public service executive schedule, which means that it is up to \$550,000 each year. There is a performance bonus. I am simply the interim CEO. I can't speak to a permanent CEO's salary.

The Chair: Senator Dagenais, your time is up.

Senator Lankin: Thank you, Ms. McDonald. To explain the process: We each have 10 minutes to engage with you. When it comes to an end, Madam Chair brings it to an end. That's why sometimes either you or one of us might be in mid-sentence when we are cut off.

By the way, congratulations on your appointment as chair of the board. I understand you are interim CEO. You would be continuing in the future, for whatever period of time, as chair of the board. You're engaged now in a search for the CEO. Could you tell us what that looks like in terms of timing?

Ms. McDonald: I was appointed as chair of the board for a five-year period in December of last year. That's my semi-permanent position at Canada Post, a term-oriented position. I have been standing in as interim president and CEO since the beginning of April.

The government has a search process under way, and had it well under way before the prior CEO left the position. It has not been successful yet in determining a new successor, a permanent CEO. I have a strong hope that will come to a conclusion in the very near future. In the meantime, I am pleased to support the corporation by carrying out a dual role.

Senator Lankin: I think we can all commiserate at a time for you to land there.

I hope my male colleagues will not take offence: I want to say what a delightful afternoon to have had two women ministers in charge of this file and to have had the opportunity to meet you as well.

I've spent a fair part of my past career on the other side of public service negotiating tables. I would tell you — no disrespect to you and to the corporation you're trying to build for the future — that among our circles, Canada Post has always been known as the worst public sector employer in Canada. To look back at the range of grievances taken to arbitration, awarded in favour of the union, taken to the court by Canada Post, and to look at the number of times that health and safety complaints have been raised and raised, and ignored and ignored, eventually leading to workers exercising their right to refuse unsafe work, supported by labour inspectors, in fact, that the right was exercised appropriately, and only to find continuations of not responding.

The structure of wages you've already referred to, and I heard — and I believe — the genuine commitment you have to equality of pay structures. I can also understand it's difficult to get there. It's a difficult situation.

The thing I'm concerned about — I can't come hard at you for what the past has been — is the government has given a very strong mandate letter to you as board chair, which will carry on, and which is appropriate — a Crown corporation is the shareholder; the minister is not the CEO, or the board chair, but the mandate letter from the Prime Minister goes to you. I hear you trying to fulfill it in the steps you've taken.

However, I continue to read about cases of preventable accidents and injuries, where fulsome and appropriate steps haven't been taken — not a decision at your desk but within the structure. There's a culture — and it takes time to change culture — that needs to be rooted out of this corporation.

Can you speak to any concrete changes you've seen? Is there less exercising of the right to refuse unsafe work? The pay equity agreement we talked about didn't get dealt with between the parties. It had to go to an arbitrator, which is the way Canada Post always resolves everything; it has to be somebody else who imposes the solution.

Please tell me what's changed and what hasn't changed as of this period of time when we're in this unfortunate labour dispute.

Ms. McDonald: I don't mean to take up more of your 10 minutes by thinking for a moment, but it's a very important question and one I care about very much.

Canada Post is not just a company in transition because of the nature of its work. It's a company in transition because it must find its way forward in a new relationship with its unions — all of the unions, but today we're talking about CUPW.

When I hear you refer to the right to refuse unsafe work being a challenge for workers at Canada Post, that's unacceptable. The right to refuse unsafe work is fundamental. The question is whether, together, we have done everything we can to try to design the nature of work in a changing work environment so there is the safest possible work environment, with everyone living in a safety culture that recognizes no one should walk past another where one sees a potential hazard or risk. There needs to be the level of awareness of safety there would be in any other industrial setting, which I am personally familiar with.

Canada Post needs to bring its injury incidents down dramatically. It is imperative. There is a fundamental philosophy that every injury is avoidable. There is also benchmarking and standards that need to be set up to ensure we are all holding ourselves to task to see numbers continually decline so employees will state they feel they work in a safe workplace.

What have I done over the last period of time? What has changed? I have stepped into long-standing issues that have represented strain — for example, on working overtime — and established immediate new procedures to ensure there is no conflict between declaring you need to work overtime in order to complete a route, rather than having to explain yourself.

I have personally sat down in extended sessions with the union, for which I give a lot of credit they would step into and sit down and engage in open discussions about why things do go to arbitration and are part of disputes rather than working on the

right answers together. That's a longer road but one I believe and hope both parties remain committed to, even when we find ourselves in the kind of intense dispute we're in right now.

As well, there needs to be an openness to change, on both sides, in terms of trying new things and being willing to evaluate together, and feeling the trust that's necessary such that both voices will weigh in in terms of whether something new has been a success, and that there will be a continual evolution if one party feels it hasn't resulted in positive change.

• (1600)

I believe that over the last nine months, Canada Post and I have tried to begin to show the evidence that things can be different. What it takes is both parties coming together and actually designing what "different" looks like together.

At the end of the day, management and I have a responsibility to provide safe workplaces. That responsibility is absolute, and safety has to be a primary consideration, if not the primary consideration, in terms of all matters of work. I am personally committed to that. I have been spending a lot of time outside of this bargaining process on issues of safety at Canada Post.

Senator Lankin: If I may, have you formed an opinion about whether the old culture that you sound absolutely committed to working on improving — I applaud and thank you for that — can be changed given the current leadership that is in place "sub" the national level? A lot of the decisions and implementation happens in districts and distribution, and in small towns right across this country.

Ms. McDonald: Absolutely, yes. For one reason, because it must. For another, because for the better part of a year, I have worked inside Canada Post and have had conversations, talked about new ideas, talked about new approaches.

The Chair: Senator Lankin, your time is up.

Senator Housakos.

Senator Housakos: Thank you for being with us here today. My question has to do with the fact that — I would like your opinion on this — for a number of weeks and months now during the negotiations, the government, led by the Minister of Labour and the Prime Minister, has made very firm and very public declarations about how they were committed to the collective bargaining process and how they were not going to be like previous governments and use the draconian tactics of legislative back-to-work measures. Of course, intense negotiations like the ones you have engaged in for quite a period of time, how helpful have those public comments been? And how valuable have they been to the negotiating process, knowing that one side might actually have believed those declarations? Would the unions and the negotiators on behalf of the unions take the government at face value that they would not at any point in time use back-to-work legislation? How did that skew the process? Did that make your side of the negotiation much more difficult in order to get the labour unions to come to the table with a more reasonable approach to negotiation? Did that poison the well, in your opinion, Ms. McDonald?

Ms. McDonald: To be perfectly honest, honourable senator, I have not been distracted by comments and speculation in the media and how those may or may not be impacting the people that we are trying to work with on these issues at the bargaining table. There have been a number of different milestones where changes have been made, as I say, with the mediator, conciliator, special mediator, and we continue to buckle down and try to work through these issues.

All I can do is actually be present and be working to find creative common ground. Whatever other atmosphere may be at play doesn't change the imperative for me, which is to keep trying to find the answers at the bargaining table.

Senator Housakos: There is no doubt. I'm certain you wouldn't be influenced at all by the comments from the government, but would the parties opposite the negotiating table from the corporation be given a false sense of security and a margin of negotiation that, in negotiations of this nature, they wouldn't have if the government was not making those declarations? That's the question I'm asking. Did those declarations make your negotiating position more difficult?

Ms. McDonald: I honestly can't speculate on what would be motivating or what would create different positions for the union that we are working with. I have to assume that the union is at the table trying to find solutions as well. What I know is that Canada Post is at the table trying to find those solutions.

Senator Housakos: Further to that question, would it have been helpful, in your opinion, if the legislature and the government, weeks ago and days ago, would have given a little hint to both parties that their patience was running out? Because what we have in terms of the chronology of events up until Monday of this week is the Minister of Labour again reaffirming in public that the government was not going to consider back-to-work legislation, and overnight they have had a change of opinion.

Again, was that type of firm position from the government helpful?

Ms. McDonald: I think I have indicated before that I have personally not been calling for back-to-work legislation. I have been overseeing and supporting a negotiating team that has been trying to work through the issues. I have, however, tried to find every tool that I could creatively come up with, including, as you may have heard, signing bonuses, back-to-work bonuses, the idea of a cooling-off period where we would commit to longer periods of mediation, and efforts at suggesting binding arbitration, removing binding arbitration if that is possibly a barrier to finding another way forward. I have been scouring the earth for whatever I could introduce that might be another way forward here.

Your question is oriented to me wanting back-to-work legislation introduced sooner. That hasn't been my goal. I did not want to be here trying to work through this through back-to-work legislation. I have been trying to find a solution to this impasse through all of the tools that I have available within Canada Post.

Senator Housakos: I must say, in one of your answers to Senator Joyal earlier, you pointed out that the government did not consult with the corporation and did not even give the corporation a heads-up that they were moving back-to-work legislation, which in itself I find a bit disturbing.

Has there been any point over the last few weeks or months where the corporation has given advice to the government about when would be a good juncture to consider that course of action?

I'm certain the corporation must have had in the back of their mind the idea and the fact that coming into December right now, being the busiest time of year for Canada Post, it was a critical period of time. Were these concerns from the corporation ever addressed with the government?

Ms. McDonald: First, I would like to go back to the phrasing of your question at the outset so that I am perfectly clear. I understood the honourable senator's question to be this: Was I consulted on the legislation? I was not consulted on the legislation. I saw the content of the legislation for the first time when it was introduced, and I did not know what was contained in the legislation prior to that. I was not advising on how the legislation should be written.

I was aware, certainly, I think the day the Prime Minister came out and said all options are now available, or words to that effect, that the government was getting to a place where it was thinking of introducing legislation. I just want to be very clear about that. I was not consulted on the legislation, but I was certainly watching and hearing the indications that the government was moving to a decision on introducing legislation probably right around that time.

I'm sorry, would you mind repeating the second part of your question?

Senator Housakos: Was there any point in time when you actually gave guidance to the government as to when would be the right time to move back-to-work legislation?

Ms. McDonald: No. I was never asking for back-to-work legislation. There was no time that I was telling them that they needed to introduce back-to-work legislation.

Senator Housakos: So this decision was exclusively that of the cabinet and the government?

Ms. McDonald: This was the government's decision.

Senator Housakos: My last question is a little off topic, but I am wondering if you could please confirm if, at any point in time, the minister responsible for Canada Post asked Canada Post to develop a plan to restore home delivery, which, of course, was one of the government's commitments in the last election. I would like to know if the government has requested a plan to be developed to reinstate home delivery. If that request has been made, when is the plan to do so?

• (1610)

Ms. McDonald: The question is: Has Canada Post developed a plan or a presentation to be made to government to ask for the restoration of?

Senator Housakos: Has anyone from the government requested a plan? If they have requested a plan, when will that plan come to fruition?

Ms. McDonald: When I came on as chair of Canada Post in December of last year, and then in January of this year was presented with my mandate, I believe all of the questions would have been asked and answered that led to the government's decision that is in my mandate letter that the conversion to community mailboxes would end. I was not there and wouldn't be able to answer your question accurately as to all of the options that might have been presented by Canada Post that led to their decision. My mandate letter that made that decision was introduced literally upon my arrival, so I'm not able to answer your question. I apologize.

Senator Dean: Thank you, Ms. McDonald, for joining us today. You have added some important texture for us so I thank you for that. My question will be a common one for the corporation and for the union perhaps in the spirit of even-handedness. None of us in this place are happy to see return-to-work legislation. We would all prefer there to have been a negotiated agreement, and we would all like there still to be a negotiated agreement.

It seems to me that now that we have seen the legislation, that first it's vital that the process for choosing a third party, a mediator-arbitrator, is even-handed. And it seemed to be that way. Second, that the guiding criteria in the legislation for the arbitrator are even-handed and relevant to the issues that have been in dispute. And third, that the proposed resolution process, mediation-arbitration, maximizes the possibility and likelihood of there still being a negotiated agreement.

Can you tell us your views, in the limited time that you have had to think about this, on these three aspects of the proposed legislation?

Ms. McDonald: The legislation, as I understand it, introduces a mediator-arbitrator, as you say, with the parties each putting forward a list. If there is a common name, that person becomes chosen. If not, it is from that list but by an independent person. That would seem to me to be a fair way of proceeding. The criteria which the mediator-arbitrator is taking into account is certainly comprehensive of the public policy interests, the public interests that need to be fairly considered I think for — I won't speak for the union, but it would appear to me to be a complete list that both parties would want to see represented, as well as the customers actually. It's not just those two parties. There is the issue of a strong corporation providing affordable services, which is in the customers' interests. I have no disagreements with anything being omitted. It does appear to me to be a full list of the public interests.

The third part that you referred to, could you repeat that, please?

Senator Dean: Combined mediation-arbitration in one person's hands as opposed to single arbitrator or separate mediator-arbitrators.

Ms. McDonald: I would say that we have now been through a process of having two different mediators. In this last period we have had a mediator come in and out several times, but he has gotten to know the issues. Therefore, with each time that he has been re-engaged by the Minister of Labour, it has been an interesting exercise where he dives deeper into challenging the parties. There is some merit in that. So having a mediator who becomes familiar with the issues and then potentially becomes the one that sets out the final decision is perhaps helpful to the parties.

To be perfectly honest with you, I do not have an opinion on the legislation. I have no quarrel with the legislation and what has been set out. But if a piece of legislation is going to come into play, I will assume that the Government of Canada has thought through the public interest and has set out what it considers to be the most fair process and content for it.

Senator Dean: Thank you.

Senator Manning: Thank you, Ms. McDonald, for being here today.

I come from a small rural area in Newfoundland and Labrador. One of the main issues I have been hearing discussed over the last number of months is the disparity between rural mail carriers and urban mail carriers. My understanding is there is about 25 to 30 per cent wage disparity. We have many more women who deliver mail in rural areas than men, and the distances they have to travel — urban are paid by the hour. The others are paid in the areas that they deliver.

This is not new, from my understanding. It has been ongoing for years and years. I am just wondering, in the negotiations that have been taking place — this seems to be one of the main concerns that the union has put forward. What efforts have Canada Post made to address that disparity? I'll leave it at that for now.

Ms. McDonald: Thank you. That's a very important issue for Canada Post and for rural and suburban mail carriers. That interesting background has led us here, as I'm sure you're familiar with, where the rural and suburban carriers were originally contractors who bid on those routes. That creates a very different structure entirely for how pay for delivery has occurred over a very long period of time. That is very different from an urban scenario, where obviously, it's an hourly wage and very different terms and conditions.

It's interesting and I have thought about it quite a bit, as to why the contracting scenario was so attractive to women in particular to become rural and suburban mail carriers. I used to live on a rural route for a long time, on a farm. I grew up on a farm. It's interesting to me that that was a very attractive prospect for a job for women more so than men. But that led us to a reality where those contractors were ultimately, awhile back, converted to employees. Then you have these two very different systems, and you have this very different gender profile to urban and rural and suburban carriers.

The long and short of it is that bringing pay equity into the picture happened in a very interesting way. It was through the gender disparity, although those two systems were very different and perhaps represented inequity even without the gender equality.

With Ms. Flynn, the arbitrator, finally ruling on how to convert, using proxies, the work and work content of rural and suburban carriers to a very complex, very different urban system is work that I'm very grateful she completed. It means we don't have pay equity on a gender basis, and that fundamentally is important. It also rapidly pushed the corporation to a place where we need to find a new way forward to create a common basis for all employees.

There is more work to do. I want to say again the arbitrator's ruling is and will be very quickly implemented in full. As you have noted, that's a 25 per cent pay increase for all rural and suburban carriers. It also means, though, we have to fill in information systems and design new ways of creating routes. We don't know the work content. There is no tracking of all of the letters and parcels et cetera in a rural area. So there is no way of creating a quantification that can be similar to urban. We need to do this work together, the corporation and the union. There must also be short-term measures to ensure that people are paid for the work they do, and those short-term measures are part of the bargaining process today.

• (1620)

Senator Manning: Negotiations began in January, from what I understand, and you came into your position in April, is that correct?

Ms. McDonald: The collective agreements expired at the end of January. I came to the corporation in mid-December. I took on the CEO role at the beginning of April.

Senator Manning: In all that time, negotiations and rotating strikes didn't start until October 22, from what I understand. At any time during all these negotiations was there some chance of an agreement? Or was it always at both ends of the spectrum, where we find ourselves today?

Ms. McDonald: I'll speak for the corporation, although I think both parties would say the same thing. Each time one of the parties has made a global offer, a comprehensive offer, which has happened a number of times on both sides, there was a great hope that that comprehensive global offer represented a picture that would be common ground, a way of cutting through and finding not necessarily the exact solution that the other side was looking for, but a way of addressing the issues and coming to a place where there could be an agreement. So, yes, I have been very hopeful a number of times that we could possibly be in a place where we could find agreement. I have been hopeful many times. Each time, though, it has turned out that we remain very far apart.

Senator Manning: Rotating strikes began on October 22, which is a couple of months before Christmas. As we all know, that's the busiest time of year for package delivery. Small

businesses can't necessarily afford to operate through FedEx and UPS; it's the larger retailers that get to do that. Once rotating strikes started, things were getting serious at that point. We have gone beyond finding middle ground here.

From October 22 until now, what different offers or suggestions were made to the union by Canada Post to try to solve things?

Ms. McDonald: As I think I have said, there have been ongoing intensive work through the special mediator. While it's invisible to the public, on a daily basis, with the mediator engaged, there have been efforts back and forth to try to come up with different creative solutions that could resolve an issue to get closer to a place where we may find an agreement.

As I also mentioned, I have authorized a number of different offers that have been trying to recognize that we were running out of time before the date that our logistical experts advised us would be the date that we would know that we would not be able to deliver the holiday season — deliver Christmas, if I can put it that way. That was this past Monday.

Leading up to that, we had a 72-hour offer that was well beyond the mandate that we had to work with. We had calculated that there was a business case, if we could get the system cleared out, get it operational and actually be able to deliver the holiday season, where we would trade off those revenues for actually just getting back to work, getting our customers reassured and getting Canadians served.

That culminated this past Monday, which was the last day that our logistical experts — if weather and everything worked for us — said we could possibly deliver the holiday season on time. That was when the offer was made, as I mentioned before, to request a cooling-off period but to recognize that that is a compromise on the part of workers who, as it has been pointed out, are exercising their right to strike. To ask them to stop that, we extended \$1,000 per permanent worker if there could be a cooling-off period. At the same time, we would agree to continue to negotiate in good faith with a jointly agreed upon mediator right through to January 31, where we would have all the returns through the system and be able to support this really important period. As I said, it initially included a suggestion that we might need to go to binding arbitration at that point if it had not worked. When I saw a press release that binding arbitration was fundamentally offensive to the union, I immediately removed it, but that still didn't work.

To your question about what efforts have been made to try to find some other way through, recognizing that we're on the cusp and are now in this holiday shopping period, I have tried to look for every creative last-ditch effort that I could come up with.

Senator Manning: Good luck.

Senator Wetston: I have a few quick questions. You have been very helpful this afternoon. I'm sure you're getting to the point where you probably thought you have answered every possible question imaginable, but you haven't yet.

I like your comment about hope. Hope is a great motivator and blaming is less of a motivator. I do hear a fair amount of blaming, as well as some expectation around hope. I'm not going to go there with you except in this context.

We have a constitutional framework that we have been thinking about regarding this right to strike and the back-to-work legislation. Obviously, the courts have struggled with this. I'm not going to get into a constitutional discussion, but the right to strike and the constitutional issues associated with it is to kind of level the playing field, generally regarded as the power between government and the union. That flows from a series of cases involving essential services.

Previously, the minister was asked a question about essential service and the fact that it has not been declared an essential service. I realize you haven't been at Canada Post for a very long time, but do you have any thoughts as to whether Canada Post provides an essential service?

Ms. McDonald: I don't have a definite opinion as to whether it's an essential service. I think that's a defined legal term that has to be thought through very carefully. I'm neither a legal expert nor a constitutional expert of any sort.

However, if I tried to take the spirit of your question from the position of being now, for a short period of time, an interim CEO and a chair at Canada Post, I think elements of what Canada Post does come close to what one would think of as an essential service. There are many communities, particularly remote communities — and I think about Indigenous communities — who have no other options. I think of small businesses that may be able to find other options but may not be able to afford those options.

I think Canada Post is a public service for a very good reason. At the end of the day, even though it needs to make compromises in its business outlook in order to ensure that it is providing services to every Canadian everywhere — decisions that no private sector carrier would ever choose willingly to do — that's the margin that I think of as being something close to an essential service.

Senator Wetston: Let me ask you a final question. I think you're getting to another point here.

We've talked a lot today about the impact. We have heard from the government. We have not yet heard from the union. You have been going through a significant period of tumult over this last period, given the circumstances.

I would like to have an idea of how this is impacting the revenue of Canada Post. How is it affecting your net revenue? Are you dealing with a lot of losses associated with your business? Your employees really depend on a company that's making money — unless, of course, subsidies flow, which may have occurred in the past. Can you give us any sense of how it's affecting your actual bottom line, your net revenue?

Ms. McDonald: Yes, I can. Our current estimate is that by the end of December, we will have directly lost approximately \$230 million in revenue. On an ongoing basis, that will level out

somewhere around \$110 million. We will have to keep revising those numbers as this dispute evolves and see where it comes to ground.

We have lost 100 customers easily. Whether or not we get those back, we are in a very competitive space. Many of our largest customers have now signed long-term agreements with our competitors. We don't know exactly where the bottom is, but those are our estimates as of today.

Senator Wetston: Thank you.

Senator M. Deacon: Two of my questions have been asked. The one I want to think about maybe now is around the area of governance.

As president and CEO, you're chairing a board. I've not done my homework on that; I don't have a good sense of the team around you on your board. However, I am curious. This time will pass. You talked earlier about rebuilding, looking forward to the future, and hope and trust, which I think are also very critical.

• (1630)

Do you have the team around you on your corporate board right now to be able to push hard, have those courageous conversations, make those tough decisions and have the governance putting in these pieces you can work on and place over here so you are building the architecture to do what you wish and what you need to do moving forward?

Ms. McDonald: Thank you for your question. I couldn't be more pleased to be working with this current board. There has been some continuity from the old board and an influx of new members who were appointed in the middle of the year. They bring a set of skills, which has challenged the issues before the corporation in different ways, in very positive ways. They bring expertise from their previous roles or, in some cases, current roles, as very senior executives in different sectors of Canada's economy that challenges the thinking of management. They are highly engaged, dedicated and have put in a lot of time over this period, challenging and questioning how we find new solutions for the future.

Senator M. Deacon: Thank you.

Senator Klyne: The questions I had were satisfied from the previous questions.

Senator Duffy: Thank you, Ms. McDonald, for coming. You have extensive experience in big business, BC Hydro, ICBC, so you know about managing large numbers of employees and the kinds of problems that present, or challenges, or opportunities.

In your earlier testimony, which, by the way, I think everyone here will agree has been very helpful to us, you testified you had not asked for back-to-work legislation. Your testimony suggests you get it when it comes to many of the issues the union tells us are in play.

How long would it take you, given your commitment to change, since the union rejected your idea of a \$1,000 bonus and so on, to make an agreement that both sides could believe in, given your positive attitude and fresh approach to some of these lingering, old problems, if we didn't have the legislation?

Ms. McDonald: I feel like only Solomon could answer that question.

Senator Duffy: Did you see any progress on the horizon?

Ms. McDonald: As I've said before, I've been hopeful a number of times and excited, actually, thinking there was a new picture or idea that possibly could break through either a particular issue or get us to the place where you could start to see the light of a new collective agreement. Each time that has turned out not to be the case.

I know there are a lot of issues on the table that require long-term solutions. We don't necessarily have the systems, the IT, information technology, infrastructure or even the knowledge of what is in the system to be able to design the type of picture that could answer questions for today.

Trying to solve those long-term issues through short-term measures but a commitment to work together over the long term is a difficult picture for the two parties to come to a place where they're ready to move into that together and solve those issues for the long term.

I guess I'm giving you a long answer to a very short question. I don't know what it will take to get this agreement. What I know is it's been the better part of a year of both parties working hard at it. We still seem to have a very, very big gap between us. We have not been able to come up with the answers.

Senator Duffy: May I ask if you have been involved in any of the discussions, even just as an observer?

Ms. McDonald: Discussions with the union?

Senator Duffy: The negotiations. Have you watched the chemistry?

Ms. McDonald: I have been in other meetings with the negotiator for the union as well as other meetings with our negotiator. I have not personally sat at the table as a negotiator, if that's what you're asking.

Senator Duffy: I'm wondering if you have a personal relationship with the union where you could build a bridge.

Ms. McDonald: As I say, that has been part of the efforts I have been making with the union. As I say, I want to give a lot of credit to the union to agree to step into those conversations with me, particularly at a time when we are in this very intense period of labour bargaining. We have had very interesting discussions between us about the nature of the relationship and what it looks like to each of us and what the reasons are that there is so much conflict and dispute-oriented discussion rather than solutions-oriented.

I feel, as I said in my opening remarks, extremely hopeful. I have a huge desire to continue those conversations. It's difficult to have them at a time when we're also in the middle of unsuccessful labour bargaining. I had hoped there could be some crossover between those discussions. All I can tell you is we haven't been able to get to that new place.

Senator Duffy: Thank you. You know about the studies that have been done. We heard, at another committee here Professor Hebdon from McGill pointing out that when there's a legislated settlement, the chances of the next contract being negotiated, without legislation, decrease by about 27 per cent.

That's probably something you would have known about, given your background in other public service corporations.

Thank you very much for your candour today. It's been helpful and frankly reassuring.

The Chair: On behalf of all senators, I would like to thank you for joining us today to assist us with our work on the bill.

Senator Harder: Honourable senators, I would ask that, pursuant to rule 12-32(5), Mike Palecek, President of the Canadian Union of Postal Workers, be invited to participate in the deliberations of the Committee of the Whole.

(Pursuant to the Order of the Senate, Mike Palecek was escorted to a seat in the Senate chamber.)

The Chair: Mr. Palecek, welcome to the Senate. I would invite you to introduce yourself for the record and then to make your opening remarks.

Mike Palecek, President, Canadian Union of Postal Workers: Good afternoon, honourable senators. My name is Mike Palecek, President, Canadian Union of Postal Workers. I would like to thank you for this opportunity to address this chamber of sober second thought, which is what I believe is in order right now.

The Canadian Union of Postal Workers represents 50,000 postal workers, from coast to coast to coast, in two major bargaining units, the urban operations bargaining unit with 42,000 members and the rural and suburban mail carriers unit with roughly 8,000 members. Both of these bargaining units are what we're at the table with right now.

As you know, we're 34 days into limited strike action.

We've taken the approach from the outset of our strike action of not going towards a full strike but taking out limited sections of the country at a time for a day or two. And we did this precisely in order to allow the service to continue while negotiations continue.

• (1640)

We felt it was necessary to put some pressure on Canada Post, as after nearly a year of negotiations there had been very little movement on the core issues that we were trying to address.

Let's be clear: These core issues are of vital importance. Canada Post has a pay equity problem and, in fact, is a serial offender on pay equity issues. We've had an arbitrator order them to address these issues. Yet, when we come to the bargaining table, we find them trying to take away with one hand what they've been ordered to give with the other.

We have a situation where they refuse to pay people for all hours worked, where people are forced to work past their schedule and simply don't get paid for it.

We have an overtime issue at Canada Post that has been getting worse and worse. We are trying to address these issues of workload. Management seems to insist that despite the ever-increasing volumes of parcels, the same number of workers should be able to just keep doing more and more work, and this is becoming a problem.

In fact, we also have an injury crisis at Canada Post. We are now the most injured workforce in the federal sector, at five times the average injury rate, at double the rate of the next group of workers, and it wasn't always this way. The situation is new.

We're struggling to address these issues and haven't found a willing partner on the other side. That's the reality, which is why we decided to engage in strike action which, as you are aware, is a Charter right. We now find ourselves in a situation where our Charter rights are about to be violated with this legislation.

We don't believe it's necessary for back-to-work legislation to come in. We believe that Canada Post has attempted to create a crisis in order to justify exactly that. We've said before that Canada Post has only one game when it comes to negotiations: It's to refuse to negotiate in good faith and then sit back and wait for legislation, and that's what has been done this time.

I did manage to hear some of Ms. McDonald's testimony, and I have some issues with some of what was said. We've heard of this tremendous backlog of mail at Canada Post. That's fiction. I heard her say there were 391 trailers. We don't have the means of verifying the exact number of trailers, but she said nearly a million parcels. Well, I can tell you that last year there were more than 40 days of the year that Canada Post delivered over a million parcels. The backlog that we're referring to is a day's worth of mail. Yet, out in the media they're saying they won't be able to clear this until next year. We don't believe that's true.

I spoke earlier with a representative of our Montreal region who informed me that their mail volumes are normal — not normal for Christmas season but normal for regular season. In fact, Canada Post was offering workers leave without pay all week trying to get them to go home because we're not even operating at capacity.

I spoke with a representative from our Toronto area, who told me that the mail in our Gateway facility — that's the largest processing plant in the country in Toronto — is a fraction of what we would normally expect.

I heard the same story from our Vancouver mail processing plant. After speaking earlier with a representative from our Ottawa local, he informed me that mail volumes are normal at the Ottawa mail processing plant and made the point of saying normal for regular season, not peak season.

That's what we expect when we conduct rotating strikes: A certain percentage of the population stops using the mail because they understand that there are strike actions happening. So we expect to see mail volumes decline, and that is part of what our strike action does to put pressure on the corporation.

We've heard stories in the other place about people with disability cheques that may be evicted. We're puzzled by those stories because we've actually signed a memorandum of agreement with Canada Post, as we have before every strike action in many, many years, that we will deliver disability cheques and pension cheques throughout any strike action. That's part of the essential services designation that we have to agree on before engaging in this action.

So to say that we're frustrated would be an understatement. I don't believe the story that has been told is accurate. And I'll take your questions.

The Chair: Thank you very much.

Senator Smith: Thank you for coming today to speak with us and share, hopefully, points that can give us some clarity.

When you hear what you've just said and you hear what another individual said who represents the corporation, you have to shake your head and say, where is the common ground? Where is the reality between the two statements? In any situation there are usually two sides to the story.

You mentioned the issues of pay equity, overtime and injury. Are those the three major issues that you're grappling with? If so, what has the union proposed or presented that management has rejected so that we can get a sense of the reality of what you're facing?

Mr. Palecek: Around the question of pay equity, this has been evolving for some time. Our initial position at this round of bargaining was actually to simply put the two bargaining units together and treat them exactly the same way. We thought that would be the easiest way to get this achieved.

We've had to back off of that position because we recognized that negotiation is about compromise. We heard that that wasn't an option from the other side, so we had to let that go.

But there are certain elements that we can't let go of when it comes to pay equity. Women have to be paid equally. That means they have to be paid for all the hours they work. We've put forward detailed proposals around this with the rural and suburban mail carriers.

When it comes to the injury crisis at Canada Post, it's complicated. Our delivery systems are very complex, and there's no one thing that solves everything. But to give you an example, it used to be that letter carriers, when they delivered mail, had one bundle of mail in their hands and all of the product was

together. That was changed a number of years ago. Now they have what they call a multiple bundle delivery, so they have a bundle of letters, a bundle magazines and a bundle of flyers and then parcels on top of it. They have to juggle all of this as they deliver and try to sort it out. That has led to more slips, trips and falls, as you can imagine.

This process has actually been ruled three times by an arbitrator as unsafe. Every time they just slightly change it rather than going back to putting one bundle of mail in their hand. This is why we've had to put these issues on the bargaining table.

• (1650)

Senator Smith: Is there a cost issue associated with some of these changes that you've recommended? Is the corporation saying that it's cost-prohibitive for them to do it? If so, what methods have the union tried to propose that make sense from an execution perspective?

Mr. Palecek: We've heard different costs, actually. I was told by the interim CEO that the one-bundle delivery method would cost \$80 million. Yet in the arbitration, Canada Post's position was that it would cost 30-some odd million dollars.

Our view of it is it would actually cost much less than that. We don't have the ability to put forward an exact costing, but based on the reduction of overtime that would happen, we think that cost would be under \$10 million.

Senator Smith: You said people are not being paid for extra time that they work. Is that correct?

Mr. Palecek: That's absolutely correct.

Senator Smith: What have you done to try to address or alleviate the problem or challenge? What has the corporation come back to you with, besides "no"?

Mr. Palecek: For this one — and this is referring to our rural and suburban mail carrier units — you're either paid for all the hours you work or you're not. There's not a lot of room for compromise on that.

What the employer has proposed now — first they said "no," but then they proposed that people would be paid for any hours they worked over their schedule. Over 40 hours a week, they would be paid overtime, but not for the extra hours under 40 a week.

For example, if you are a rural and suburban mail carrier and are scheduled to work six hours a day but you were actually working 10 hours a day — that sort of thing is common — you would get paid for the extra two for overtime but you wouldn't get paid for the two between six and eight.

These are the positions that we're grappling with at the bargaining table.

Senator Smith: How about women? You said ladies are not getting paid equal wages as compared to men. Does any of this relate to the fact that some of the ladies are working in regional areas. And historically, if I understood listening to people before, the regional areas had contractors.

Is there a significant difference in terms of the way work is done so that it structurally becomes more expensive to work in the outlying areas? If so, how do you address it from a union perspective to make sure can you come up with a positive solution?

Mr. Palecek: This is exactly the pay equity issue, which is you have one bargaining unit that is predominantly women and one bargaining unit that is predominantly men. They do the exact same work, but the one that is dominated by women gets paid substantially less.

Senator Smith: The contractors are getting paid more?

Mr. Palecek: No, these workers were historically contractors. That changed in 2004.

This issue has been extensively evaluated with an arbitration process, where it was found that it is work of equal value and they should be paid equally.

Senator Smith: Have you costed the solution to the three issues that you've mentioned and the impact that that solution from an economic perspective would have on Canada Post? And if so, how much would that be?

Mr. Palecek: We don't have the ability to cost out exactly the cost of these demands. Canada Post has access to the information in order to do that.

Senator Smith: Are they going to share that information with you? Is that what you're saying?

Mr. Palecek: We don't have the ability to do it independently.

Senator Smith: Thank you very much.

Senator Lankin: Mr. Palecek, may I begin by saying thank you for your leadership on behalf of your brothers and sisters because it is not easy to take a strike decision. I commend you on a moderate position in terms of limited strike action at this point in time.

I also will say that historically, we go back to the days of seeing the bravery of your predecessors, in particular, Jean-Claude Parrot being willing to make the sacrifice to go to jail to defend the right to strike. Your union has played a pivotal role on this issue around the right to strike and on many issues.

With respect to pay equity, I remember the days when CUPW was leading on establishing paid maternity leave at a time when the country never imagined having a law that would cover all of the country. There are many other circumstances that I could comment on. So it is a proud history that this union has.

I said to your interim CEO that in all of the years that I've been involved in public sector negotiations, we always referred to Canada Post as the worst public sector employer in Canada. The kinds of situations that have been highlighted by this strike action around health and safety, forced mandatory overtime, overtime hours without pay, pay equity structures, precarious contract employment, a range of those things, are the same kinds

of issues that have been at the core of the struggles for many years in the various bargaining situations and strike actions that you have taken.

What disturbs me is the continuation, even over the course of this last year while negotiations have been going on, of situations where workers have to move to use the right to refuse unsafe work instead of having things resolved at the health and safety joint committee table; where pay equity, which has been enshrined as a right in the federal sector through the human rights code as opposed to other provincial jurisdictions with their structured legislation, I'm pleased that legislation is coming forward, and we'll deal with that soon. It will be in this chamber for us to deal with within the next week or so.

But here it had to go to the point of an arbitrated award. We have been told that there is good faith in moving and implementing the arbitrator award by some commentators. I don't know if that's true. You might have a comment on that.

My question to the interim CEO was about the change in mandate that the government has sent to the corporation with encouraging words and how she will go about driving that down in the organization. It seems to me that a lot of the continued problems exist at regional management and subnational management levels.

Could you comment from a regional and local level management perspective? Has there been the beginning of a change in culture? Is there a discussion that's going on? Are you seeing any progress? That's outside of this dispute, I grant you that, but I want to know if there's something to look forward to in the future with this corporation or if it's same old, same old?

Mr. Palecek: We've had a problem for a long time with bullying, harassment and intimidation of our members by management and supervisors at all levels. That issue was raised earlier this year, actually, by a rank-and-file member of our union speaking at a town hall meeting in Winnipeg. The Prime Minister actually answered the question, promising that this would be addressed.

Following that, we launched what we called the "bully-bosses campaign." We asked our members to send us their stories. I can tell you we received binders and binders full of stories, some of which would make you cry.

Throughout this process, we brought these to the minister responsible for Canada Post, Minister Qualtrough, where we were once again assured that this issue would be addressed and taken seriously. We finally had a meeting with the interim CEO, Jessica McDonald, and the heads of all of the other unions at Canada Post. After some discussion, it was decided there would be an initiative with all of the unions involved to try to address these issues. Then we never heard anything about it again.

• (1700)

Senator Lankin: The arbitrator's award with respect to pay equity, specifically would you be willing to share either the reference so we can look it up or send a copy of it through the Government Representative's office so it can be distributed to all senators?

Mr. Palecek: We could absolutely do that.

Senator Lankin: Okay. You talked about the backlog issue. We have been hearing much about the backlog and your position that is false. Senator Housakos and I — he is not here just at this minute — but we said we were going to get in a vehicle and go drive to a distribution centre, go drive someplace, and as you said you don't even have access to see that. We would like to see some evidence of the situation.

I had the opportunity yesterday to speak to a few different labour relations experts who testified in Charter challenges around withdrawal of right-to-strike situations. One of them in particular made a very strong point that while the structure of this back-to-work legislation takes into account the considerations raised in the *Saskatchewan Federation of Labour* case and the 2011 Ontario Superior Court case, and attempts to strike a different balance, there is another test that has to be met. That is about the necessity of using the legislation, irrespective of how it is structured.

In his words, the bigger question here is the strike itself. Has it really significantly disrupted postal services? It's a rotating strike. It's designed to moderately disrupt the mail. At the end of the day, the constitutional ruling if this legislation is passed and if in fact your union takes this to court, which I am guessing that's a good bet, that it might be on shaky grounds on that point alone.

What possible hard evidence is there we can obtain around backlogs? I heard you talk about the local reports. I was online through the various websites and went on to a couple of your local sites with bulletins, in which they claimed with some pride that they had created a backlog. I assume that's for a couple of days. I'm looking for evidence. I'm not looking for anecdotes. I am moved by the letters and the impact on small businesses and consumers. It's real. That's what the strike is about. It is about creating and using the only leverage you have as representatives of workers.

Is there any hard evidence you can help point us to for us, in our deliberations around the constitutionality and Charter compliance of this legislation, that addresses the second point, that being the necessity of the legislation at this point and time?

Mr. Palecek: I would think in terms of the backlog even just what was presented here today, they said almost a million parcels backlogged. As I said last year, they were over 40 days where we delivered that in a day. Granted, it would be a busy day. I would argue this year those numbers will probably be higher because our parcel volumes are steadily growing. On that point alone, no, there is not much of a backlog.

In terms of other points around the necessity of legislation, we have already come to an agreement on the essential service component. That's the agreement that we deliver social assistance cheques. We deliver pension cheques, disability cheques throughout any strike action.

Senator Lankin: Live animals, we heard.

Mr. Palecek: Live animals as well, yes. Sometimes they mail baby chicks and honeybees as well.

The Chair: Thank you very much. Senator Lankin's time is up. Senator Day.

Senator Day: Thank you, Mr. Palecek. Way down at this far end here. Thank you very much for taking the time to be here. I know you could probably be doing something other than being here to help us. It's quite important we hear from you.

The first question I have relates to clarification in my mind, if not clarifying the record, in relation to pay equity. We have talked about the rural area being more women, by 70 per cent, versus 30 per cent. Is the pay equity issue an urban-rural or a gender issue?

Mr. Palecek: We're talking about the rural and suburban bargaining unit. These areas are set by geography, which was set up a long time ago. Of course as the cities are expanding, you're increasingly seeing what we would describe as urban areas in the suburban unit. The discrepancy is between the two. They do identical work, but get paid different amounts for that work.

Senator Day: Yes, I understand that, and it just turns out there is a gender issue that is involved in here as well.

Mr. Palecek: Well, I don't think that it just turns out that way. It was designed that way. If you go back far enough, these routes were often filled up with rural housewives who would do this for spare money. It was said they did it for pin money.

Senator Day: Thank you for that. I'll go on to my next point, if I may. Are negotiations ongoing right now over the weekend? Is that happening right now?

Mr. Palecek: Yes, we're continuing to negotiate with the assistance of the mediator. We're really hoping for a negotiated agreement. We know that's the only way we'll get an agreement both sides can live with.

Senator Day: I can tell you those of us who are sitting here feel the same way. We're hopeful that will happen. You're hopeful. Is there a possibility of a cooling-off period that allows — even though this legislation might get passed, it doesn't come into effect until there is Royal Assent and that can be held off. Is there a possibility of negotiations continuing after this weekend?

Mr. Palecek: Absolutely, there is a possibility. We have fought very hard for our right to negotiate. That is exactly what we intend to do.

Senator Day: Thank you. I hope you'll continue that.

My final question: I know you don't want this legislation to be passed, but I want you to bear with me. If it does get passed, is there anything you would like to see before it's passed added into this legislation? Is there anything we can do as the Senate to improve this undesirable legislation from your point of view?

Mr. Palecek: We're still reviewing the legislation with our legal counsel. I couldn't give you a definitive answer. I understand that time is a lot shorter than I think it needs to be. I would say there is something we have thought unusual. The legislation leaves it up to the Minister of Labour to determine the outstanding issues to be forwarded on to arbitration. That's

something that would normally be left to the parties to decide what the outstanding issues are. We were rather concerned about that.

Senator Day: Okay, thank you very much.

Senator Plett: Thank you for being here this afternoon.

You seem to have some doubt about Ms. McDonald's comment that there were 391 trailers backlogged. Do you have some information that that is not correct and that she was giving us wrong information?

• (1710)

Mr. Palecek: It doesn't seem to match up with the reports we're getting from our work floors across the country. Canada Post, however, has said in the media that they have other sites where they are storing these that we're not aware of. That could be true. I believe that number of trailers is about right for a million parcels, which is what they are claiming to be. For us, the less credible-sounding part is that this is a big backlog. That sounds like a day of work for us.

Senator Plett: Given the fact that she was here testifying, just as I would like to believe that all the information you give us here is correct, I would like to believe that hers is as well. Unless you have information that it isn't correct, I don't think you should put insinuations out there that any one of our witnesses here today has been telling us something that is not true.

Mr. Palecek: As I said, the question for us is more about the number of a million parcels and this being a large backlog. We call that "Monday."

Senator Plett: I don't profess to be an expert on these negotiations, but clearly we have issues in this country that go beyond the postal workers not being paid as much as you believe they should be, and pay equity and so on, and I'm sympathetic towards that. However, although these are rotating strikes, we have fairly good information that they have cost the average business person in Canada, since October 22, \$3,000. Businesses are closing.

Senator Sinclair mentioned earlier that obviously you are not going to strike if it's not going to have any impact. The idea of a strike is to have some negative impact somewhere. I understand that, and I do support your right.

However, has any consideration ever been given to maybe saying, "We will, in good faith, pick up the ball here and stop our rotating strikes until after the Christmas season, and then we'll go back to it again," or are you afraid that you would lose all your bargaining power? I'm sure that would have at least stopped back-to-work legislation.

Mr. Palecek: Frankly, Canada Post had a year-long cooling-off period. This could have been addressed without any strike action whatsoever. We have been trying to address these issues at the bargaining table for a year. However, to be frank, if they wouldn't negotiate when there was no pressure on, why would they negotiate if we took the pressure off?

Senator Plett: Well, I guess simply to prevent back-to-work legislation, at least for the time being, and get everybody around the table. I was a little disenchanted to hear, from Senator Joyal's question to Ms. McDonald, that they didn't seem to have been involved at all with the government in any of the negotiations, and she said she had read it on the website. I'm assuming your union and your leaders would be in the same position?

Mr. Palecek: We have met a few times with Minister Qualtrough and Minister Hajdu.

Senator Plett: In a press release this week, you said — and I'll quote just a small part of it — that "Trudeau is showing his true colours," I think are the words you used. Between 1950 and 2014, back-to-work legislation has been used a total of 34 times — this is not something unique — mostly with regard to transport or Canada Post: Air Canada, CN and Canada Post. The majority of those were done by Justin Trudeau's father in the 1970s.

For Canada Post, Pierre Trudeau, Brian Mulroney, Jean Chrétien, Stephen Harper, and now Justin Trudeau have all implemented back-to-work legislation. Have all these gentlemen been showing their true colours, and what are those colours?

Mr. Palecek: I do not believe that Mr. Harper hid any of his intentions, whereas with —

Senator Plett: I listed five people. I don't want you to address only Mr. Harper.

Mr. Palecek: No, I pointed him out because he was blunt with his intentions, while others weren't as blunt. Certainly the Prime Minister has made much more of a point of saying that he believes in collective bargaining. I would say that a significant difference has happened recently, which is that the right to strike has become enshrined in the Charter by the highest court of this land, and it wasn't previously. So I think we had reason to expect differently.

Senator Plett: In 1997, Jean Chrétien implemented back-to-work legislation. It took 10 days. When Stephen Harper did it, it took 12 days. So why was it worse for Stephen Harper than it was for Jean Chrétien, and what difference does it make? This has been a month. Whether it's 12 days or one month, it has been a devastating period of time for many people, so I'm not sure how that plays into it.

Mr. Palecek: Mr. Harper's legislation was struck down by the courts as unconstitutional.

Senator Plett: Because of the length of time he took, when it was actually more time than Jean Chrétien; and the main reason the court gave for striking down Stephen Harper's legislation is that he did it too quickly.

Mr. Palecek: I believe the court gave a number of reasons.

Senator Plett: Thank you.

Senator Sinclair: Thank you. Over here, sir. I'm on the opposite side of the room from Senator Plett, figuratively and literally.

Let me begin by asking you this question. It is clear that the process of negotiation between the union and the employer was dragging on for a year. It took 10 months before the union actually started its collective action of taking rotating strikes. Why did you take so long, considering the fact that five weeks after you did that, the government is legislating everybody back to work? Why did it take you so long to take your collective action?

Mr. Palecek: We were hopeful we would get a deal. That period of time isn't outside of the norm. We did make proposals throughout the process that we thought would move things along and, frankly, had assurances from the other side that that would happen.

For example, in the spring we proposed that we move into the hotel full time for negotiations, which is a great expense to this union, and it's normally done at the very end of negotiations. That was a signal that we were planning to solve this within the next few weeks. Instead, we sat there for months and months and months, spending hundreds of thousands of dollars, in order to hold negotiations that weren't happening. We made many overtures towards this and hoped it would be resolved quickly.

Senator Sinclair: The news media carried a story not that long ago, and I think it involved a representative of Canada Post — although it may have been a member of Parliament; I'm not sure — criticizing the union for not having taken the last offer from Canada Post to its membership for a vote.

Are you able to respond to that? Did you not take an offer to a vote, and why is that?

Mr. Palecek: The decisions are made by our National Executive Board, which are elected representatives from across the country. We were given very strong mandates from our membership to address these issues. We know where our members are at, and we're not going to bring something to a vote that they are simply going to reject.

Senator Sinclair: What was the nature of that mandate? Are you able to talk about percentages of voting in favour of strike action?

Mr. Palecek: Yes. They were 93.5 per cent in one bargaining unit and about 96 per cent in the other.

Senator Sinclair: Mail delivery disruption has been raised as a major issue behind the government's decision to legislate the parties back to work.

Again in response to a news article I read the other day, I wonder if you have a view in response to the assertion that some of the major players are the large mail-order businesses such as Amazon. Do you have a view about that or any information you can share with us?

• (1720)

Mr. Palecek: Yes, I heard Ms. McDonald's comments earlier that they had lost 100 customers. As far as we're concerned, we have 35 million customers.

Senator Sinclair: Senator Plett was very helpful in reviewing some of the numbers. In the history of legislation in which unions have been ordered back to work, Canada Post and its unions figure prominently. This is not the first time that Canada Post and the union has been ordered to go back to work through legislation.

I wonder if you can comment upon why that is so. What is the nature of the problem here that we're not seeing you for the first time, and we're probably not seeing you for the last time either?

Mr. Palecek: I think there is a culture of combative labour relations at Canada Post that is deeply entrenched and has been there for some time.

Senator Sinclair: So you don't like each other?

Mr. Palecek: I think it's largely reflective of the treatment we receive on the work floor. As I said in earlier testimony, there are binders and binders full of complaints about bullying, harassment and intimidation. There is also a sort of military culture and structure throughout Canada Post, so much so that if you don't show up for work one day, they declare you AWOL.

The Chair: Thank you, senator. Senator Joyal.

Senator Joyal: Mr. Palecek, welcome. When Parliament was called to vote on the previous bill that was adopted and return-to-work legislation in 2011, many of us who were in this chamber raised a concern about the constitutionality of the legislation. As you said in one of your responses earlier on, the court recognized that it was unconstitutional. I'm sure that you have had the opportunity with your advisers to go through that decision.

When you read Bill C-89, the present legislation, which aspect in this legislation seems to you to infringe on your Charter rights in a way that a court could conclude it being unconstitutional? I know it's a legal question, but I'm sure that you have a legal adviser with you who could certainly give you some advice in relation to the validity of the present legislation.

Mr. Palecek: I'm not a lawyer, and as I said, we're still reviewing the matter with legal counsel, but I would say it certainly doesn't meet the test of the necessity of the legislation based on the limited strike actions we're taking.

There are other questions that aren't simply about constitutionality, but we believe it's in violation of the ILO Conventions which have been ratified in this country on the right to strike. So it's illegal in other ways as well.

Senator Joyal: Would you also say that the minimal impairment aspect of the bill has not been rightly defined, that it removes any right to strike instead of proposing a more flexible way of exercising the right to strike?

Mr. Palecek: We don't think the necessity of the legislation has been demonstrated by the current situation.

Senator Joyal: Is that, at first sight, the major point that you see being the major defect of the bill?

Mr. Palecek: As being a major point. I made a comment earlier about the fact that this would leave it up to the Minister of Labour to determine what the outstanding issues are. We see that as highly questionable. There are a number of aspects of this bill that need serious legal study.

Senator Joyal: The bill brings to light the reality of the labour relationship between the employer and the union, which is the fact that the employer always has in his back pocket the possibility of back-to-work legislation. I think it's not an exaggeration to conclude that in relation to Canada Post, it's more or less a way of solving labour relations. In other words, there is a lack of balance in the system that is persistent through the years.

You and my colleagues have raised a number of back-to-work legislation examples that pertain to the Canada Post. I remember in the 1970s, your predecessor Mr. Parrot was one of our favourite subjects of reflection each time that we had to consider back-to-work legislation. I'm sure you're not of the same mindset as Mr. Parrot. I have no doubt about that. But there is no doubt, as you said, a culture in the system that brings about an unbalance that is permanent in that this bill, in fact, entrenches matters one step further.

How do you see the situation systemically to prevent another situation similar to this one four or five years from now?

Mr. Palecek: Well, I would first say that Mr. Parrot is absolutely a major aspect of our reflection as well. In fact, I met with the brother just last night.

I believe that we're here precisely because we have been unable to settle these issues in previous rounds of bargaining. A lot of the health and safety issues that we're trying to deal with were on the bargaining table when we were legislated back under the Harper government, and because we were not able to deal with them there, things have now reached a crisis point in terms of the injuries that we're facing. So I fear that if this legislation goes ahead, we'll be in a very similar situation next time around.

Senator Joyal: When you responded earlier to a question that you have met with the two ministers that we had an opportunity to hear this afternoon, when did those meetings take place? What was the subject of the discussion with those two ministers?

Mr. Palecek: I couldn't give you the dates off the top of my head, but it was over the last couple of months. We have had a number of meetings with Minister Hajdu and Minister Qualtrough together. We have discussed the process of negotiations around appointment of mediators, things of that nature. We have also discussed some issues that we're trying to address at the bargaining table.

Senator Joyal: Was there at any moment the possibility raised that there would be back-to-work legislation if there was no agreement?

Mr. Palecek: No, there was not.

Senator Joyal: When did you last meet with them?

Mr. Palecek: We have had phone calls and in-person meetings. We have had phone calls with two of them throughout the last two weeks, for sure.

Senator Joyal: On those occasions, there was no option of back-to-work legislation if there was no agreement?

Mr. Palecek: Well, that was certainly discussed after the comments were made that all options were on the table. We tried to seek clarity about what exactly those options were but weren't given clarity on that.

I certainly made my feelings known at one point to the Minister of Labour that we thought they were insinuating back-to-work legislation and that that was very dangerous, because we were worried it would cause the employer to shut down negotiations and essentially wait for the legislation.

Senator Joyal: Especially considering the past history of labour relations between the employer and the union.

Mr. Palecek: Exactly.

Senator Joyal: If this bill is adopted, how do you see the negotiations resuming?

Mr. Palecek: Well, negotiations are not halted. We are still at the bargaining table, and we are still trying hard to reach an agreement. We'll continue what we're doing.

• (1730)

Senator Joyal: Is there a possibility this bill is helping the negotiation at this stage, or do you think it is creating a sour ambience between the two parties?

Mr. Palecek: I don't believe it is helping.

Senator Joyal: You don't believe that it is helping to bring you closer? Sometimes it's better to have an agreement that has been the result of bargaining rather than an imposed solution by a third party. Don't you think that is the preferred route?

Mr. Palecek: It's always better to have a negotiated agreement than an opposed one.

Senator Joyal: When the interim chair of Canada Post was here, she told us about the various periods of mediation, arbitration and mediation again, and there was no movement during all those steps you went through in the last year or so. Could you confirm how many meetings took place at each step and if any progress was made or if it was stalled during that period?

Mr. Palecek: I couldn't confirm the number of meetings. Talks continued throughout that entire period. Neither side walked away at either point, although our bargaining is complex. It's not just one table. We have different bargaining tables for different issues. We also have meetings that happen around the bargaining table — not formally with the committee, but through our national executive board. There were lots of talks.

I don't believe it would be accurate to say there was no movement during that time. In fact, you could compare our latest offer with the initial program of demands we put forward a year ago and you would see there was a lot of movement at least on our side.

Senator Joyal: When you say the bill identifies a certain number of issues that have been the object of bargaining, especially proposed section 10.2 —

The Chair: Senator Joyal, your time is up.

[Translation]

Senator Dagenais: Thank you for being here with us today, Mr. Palecek. Do you think this legislation is unnecessary? I used to be a union leader, and from what I can see, the employer deliberately dragged things out until the holidays to create a false sense of urgency, because it knows that the government will step in and resolve the situation by taking away the workers' right to strike.

[English]

Mr. Palecek: I don't believe this bill is necessary. I believe it's an impediment to improving labour relations at Canada Post.

[Translation]

Senator Dagenais: I heard that the employer proposed a truce until January 31. Do you think that truce would help the employer get through the critical holiday season? Would you have a lot less bargaining power on January 31, since the holidays would be over? Could negotiations wait a while longer? I get the impression that this is a critical period.

[English]

Mr. Palecek: One of the issues regarding strike actions we've taken during this round of bargaining is a ban on overtime. This is the busiest period of the year. That is the most stressful time for our members. We cannot, in good conscience, send our members back into the same conditions.

I've had a number of our members contact us since we put in that overtime ban saying, "Thank you. I can finally see my family again." How could we ask them to go back, without addressing this?

[Translation]

Senator Dagenais: Today, we heard from the ministers and the CEO of Canada Post. According to them, the negotiations are going well, and they're just asking for special legislation as a preventive measure. I personally have never seen workers go on strike when everything is going well.

Could you tell us about the climate at the bargaining table with the Canada Post representatives?

[Mr. Palecek]

[English]

Mr. Palecek: Canada Post is a very frustrating employer to bargain with. As has been said here, there's been a long, combative relationship. I think that makes them less likely to negotiate in good faith.

Through this, we've had incidents where Canada Post would come to the table and say their position is one thing. When the actual contract language comes back to us it turns out to be something else, or there is a Trojan horse inserted into it. We've had incidents where management has gone directly to our members on the work floor to bargain with them directly and talk about issues that are supposed to be on the bargaining table.

It's fair to say it is a very frustrating employer to negotiate with.

[Translation]

Senator Dagenais: The minister spoke about how the government's legislation includes a mediation process. Do you have confidence in a mediation process with Canada Post? Obviously, a mediator would be appointed.

[English]

Mr. Palecek: We have confidence in mediation. That's why we asked about it from the very outset. This was unprecedented on our part. From the beginning of negotiations, we asked that a mediator be present. We had mediation present throughout the negotiations. We found that was very useful. Frankly, without a mediator present, we don't think there's any possibility of real negotiations happening.

[Translation]

Senator Dagenais: I'd like to get back to gender equality at Canada Post. An arbitrator's ruling has not been complied with, and Canada Post is taking a long time to implement it. Do you sense any willingness on the part of management to implement this ruling, or is it simply giving up?

[English]

Mr. Palecek: It's still not being paid attention to. The current offer Canada Post has on the table does not live up to the pay equity order.

[Translation]

Senator Dagenais: Now, back to precarious employment and the workers who have temporary jobs. You can't sign a mortgage at the bank to buy a house with a temporary job. Would it be possible to treat temporary employees differently and eliminate this insecurity?

[English]

Mr. Palecek: Yes, it would absolutely be possible to dramatically reduce the precarious employment at Canada Post. We've put proposals forward that would do just that.

The stumbling block is Canada Post would rather staff things with overtime, where they don't have to carry additional benefits flow. That is the resistance they have to create full-time jobs.

It would be fair to say Canada Post requires forced overtime, overwork and overburdening in order to function with their current model. We believe that's fundamentally wrong.

[Translation]

Senator Dagenais: The CEO of Canada Post told us that if the special legislation passes, she is counting on the goodwill and good faith of union representatives to discuss how to improve the atmosphere at work. I don't think that the atmosphere would be very good after special legislation passes. Can you talk about what the atmosphere has been like at Canada Post after special legislation has been introduced? Should we believe the CEO when she says that Canada Post will try in good faith to bring back an "acceptable" atmosphere at work?

[English]

Mr. Palecek: I don't think it has ever helped before. Any time we have legislation which imposes collective agreements, it leads to more animosity on the work floors. It leads to a fundamental sense of injustice amongst our membership — a very real sense of injustice, I would add. I believe our members have a right to vote on their collective agreement. That's really what this means at the end of the day if this law goes ahead; our members won't have that right.

• (1740)

No, they will not feel any ownership over the contract which is imposed upon them.

[Translation]

Senator Dagenais: We talked about the notion of Canada Post being considered an essential service to justify the special legislation. Some have said that Canada Post is an essential service. I'd like to know how you would define "essential service."

[English]

Mr. Palecek: We've actually come to an agreement with Canada Post on what is essential service, as we're required to under the law. As was referenced earlier, we've agreed to deliver pension cheques, disability cheques, social assistance cheques and to make sure that any live animals caught in the mail stream are not impacted by our strike action.

[Translation]

Senator Dagenais: Thank you, Mr. Palecek, and best of luck.

[English]

Senator Bovey: I want to move to another topic and touch on an international issue following up on a question that my colleague Senator Omidvar posed to Minister Hajdu and Minister Qualtrough earlier this afternoon.

In your view, does this legislation contravene any international treaties, in particular, convention No. 98, which was signed June 14, 2017?

Mr. Palecek: We're concerned that this legislation would run afoul of that particular convention. That being said, I couldn't comment in full on that, as we are still reviewing it.

Senator Bovey: You're not at this point able to say how it might contravene that convention.

Mr. Palecek: I couldn't say that myself right now.

Senator Bovey: Have you or has anyone you're aware of looked at any other international agreements to see how they are affected by this proposed legislation?

Mr. Palecek: We're undergoing those reviews now. Our first step was to take a look at the constitutionality of the legislation. And we're now looking at the agreements with the ILO and how this may contravene those.

Senator Bovey: Thank you.

Senator Manning: Thank you for joining us here today.

When was the last time your membership had a negotiated agreement with Canada Post?

Mr. Palecek: We had negotiated agreements two years ago. But it was a bit of a special case, and we agreed to very short-term collective agreements at status quo precisely in order to give Canada Post and the government time to figure out what they were going to do with Canada Post.

We were at this point in 2016, and we were about to begin the public review of Canada Post. We did not want to disrupt that service, as the public was deciding on what they want from the future of their post office. But we most certainly flagged these issues and gave Canada Post time to try to address them before we came back to the bargaining table.

Senator Manning: Did Canada Post ask to have that agreement extended that you agreed on two years ago? I'm not sure if anybody knows what to do with Canada Post. I'm wondering about the next step. In your negotiations or discussions, did they ask for an extension for two years? Listening to people here today, I'm still questioning what the future holds.

Mr. Palecek: We agreed to two years at more or less status quo. I gave you some of the reasons earlier, but we certainly flagged the health and safety issues. We also agreed in that to a pay equity arbitration process that would give us a couple of years to figure out exactly where pay equity stands.

So it was very much seen as a ramp towards these negotiations, where we would actually resolve those issues.

But in those two years, injuries increased dramatically at Canada Post.

Senator Manning: That segues into my next two questions.

You mentioned that whatever is on the table at the present time does not meet the pay equity criteria that you're looking for. I raised a question with the CEO of Canada Post in relation to the urban versus the rural side of things. You're saying that it doesn't meet what you're asking for.

How far has Canada Post come? How far do you need to come to meet that?

Mr. Palecek: They're moving on and moving towards it. But, for example, they're still insisting on paying piecework rates for rural and suburban mail carriers, if they deliver parcels on weekends, and that's absolutely a violation of that decision.

Senator Manning: Are there any training programs or safety programs in place by Canada Post or yourselves in relation to your members or their employees? We've gone from carrying letters around to carrying packages. I guess that's maybe much of the reason why you have more injuries.

The proper lifting of packages sounds simple, but it causes back injury if you don't lift them properly. From an early age, we were taught to lift with our legs as opposed to our back, as an example. I'm wondering what processes are in place within the structure to address those kinds of concerns.

Mr. Palecek: We do have joint health and safety committees in workplaces as is required by law. Some training is provided to our members, but we would say it is completely insufficient at a time when our industry is changing so dramatically.

Senator Manning: The interim CEO also mentioned the fact that there are supposedly 391 trailers with a million packages, and somewhere along the line, she mentioned that they are looking at maybe 30,000 packages being delivered this weekend.

What's your take on that? If they say there's a million packages out there, and you mentioned earlier that for 40 days last year you moved a million packages, so moving 30,000, if you do the numbers, you could do that in the next hour. It's a job for me to follow the concern in relation to this.

What's your issue on the fact that she says they can deliver only this many based on the rotating strikes at the present time?

Mr. Palecek: I believe that would be based on the overtime ban, which we have in effect. Obviously, you can't deliver packages on overtime when the overtime ban is in effect.

As I said, many days of the year we deliver more than a million packages on straight time, when people are working and, of course, they get forced to work into the evening as well.

I believe last year the record was 1.8 million parcels delivered in a day.

Senator Manning: There are two different divisions virtually doing the same work. I understand where the rural and suburban carriers came from. It's the fact that they were contracted out and came up, and you mentioned about having them all under the one umbrella; that would be the plan.

Is that something that Canada Post is in agreement with? Or do you find a roadblock when you have that discussion about bringing everybody under one umbrella? We're operating on two different entities, and I'm just trying to find out how you try to be fair to everybody across the board.

Mr. Palecek: There have been some indications from Canada Post that they would be willing to look at this and consider putting the two bargaining units together. But that's not an issue for the bargaining table per se. The bargaining units are, of course, determined by the labour board.

What we really would like to see is the work methods and the work structures, the route measurement structures, becoming equal because right now we have two very different systems to accomplish the same thing, and one just so happens to pay the other a lot less.

Senator Manning: Thank you.

Senator McPhedran: Thank you, Mr. President, for making the time to be here with us today.

• (1750)

Earlier, a number of us were very busy texting those we know in the labour movement, really hoping that it would be possible for you join us. It's very important to have you here.

I want to ask a question about a bit of an overview from you, please, that takes us from 2011, when your strike was broken and the law was ruled unconstitutional, and then the past seven years, 2011 to 2018. The general theme of my question is progress, if any.

I heard what you said to us a few moments ago about an agreement in 2016 to hold the status quo, in essence, to allow the corporation some time and space to reorganize.

We're now here at the end of 2018, and my question has two parts. Both are about the proposed law before us. I hear you when you say very clearly that there is not support for this bill proceeding. My first question is about the content of the bill. In the statement about the six guiding principles in the bill, do those guiding principles adequately cover what from the union perspective are the outstanding issues that need to be sorted out at this time in order to make progress?

Mr. Palecek: I think they touch on some of the major issues that we're facing, but understanding that we're talking about 50,000 workers in two different collective agreements. In fact, the urban operations unit used to be seven different collective agreements. They've all been put together. So there are a lot of smaller issues that matter a lot for small groups of people, if that makes sense.

Part of our concern is that some of those issues are already the law. Pay equity is already the law and Canada Post didn't follow it. Health and safety is already the law. So without actually having them come to the table and put pen to paper and sign and say, "We are going to do X, Y and Z," we have very little reason to believe that this is going to end up in something that solves these issues.

Senator McPhedran: Another part of my question relates to clause 11(7) of the bill, the subheading is, “If no final offer submitted.” It states:

If either party fails to submit to the mediator-arbitrator a final offer when requested to do so under subparagraph (1) (b)(ii), the mediator-arbitrator must select the final offer submitted by the other party.

I appreciate this is standard practice, but I’d also appreciate hearing from you as to the potential scenario that could roll out here. Would you envision the possibility that if this bill were to become law, that there would be a scenario where the employer would submit a final offer and the union would not and thereby have the union become subject to the entirety of the employer’s final offer?

Mr. Palecek: I would think that that clause is there to be rather coercive and force the parties to participate in the process.

We’ll be making our decisions around that in the coming hours and days, but I would really hate for our offer to get lost in the mail and then have the employer’s imposed on us.

Senator McPhedran: The last part of my question is to ask if you would agree to an overall conclusion that I’m drawing from your testimony today, that from 2011 to 2018 there has been no discernible progress in the negotiations to have a stronger agreement representing the concerns of the union. That’s part of it. The second part is you have little sense of there being an opportunity for the kinds of improvements that you feel are significant and crucial, and crucial, were this bill to be enacted.

Mr. Palecek: I would say that over the last decade, really, our members have seen their working conditions profoundly disrupted. Just about everything has changed and changed for the worse. It’s now common for postal workers to be delivering mail late into the night and Canada Post’s response to this is to give us headlamps. To say that there hasn’t been progress is an understatement. It’s precisely the opposite. We’ve seen our working conditions eroded and our members are at a breaking point. It is not uncommon for people to literally break down in tears on the work floor. In fact, it happens every day. We’ve seen the injury rates skyrocket. We didn’t use to be the most injured group of workers in the federal sector. All of these changes have happened over the last year.

What I would say is if these issues aren’t fixed, if Canada Post can’t pay women equally, if they can’t treat our members fairly and give us safe working conditions, then there will be no improvement in labour relations. They have to address these issues if they want the relationship to improve.

Senator McPhedran: The last part of my set of questions is to reference questions that I put to Minister Qualtrough and Minister Hajdu when they were with us, and I haven’t had a chance to catch up on that transcript so I’ll just summarize it.

I asked them, and particularly Minister Hajdu, what, if anything, as ministers were they prepared to do or would do in the event that there was an imposed agreement that did not fulfill their expectations in terms of the six guiding principles for key issues. The answer that came back was that the procedure that

would be followed is that the parties have the option of going to court and that the agreement would be dealt with through the regular process. Neither minister had anything to say about any specific action she was prepared to take in that event.

I’d appreciate your response to that, if you have one to share.

Mr. Palecek: I certainly have concerns that this could lead to endless court battles. That’s the approach that Canada Post has taken over the years in addressing issues.

I said earlier that they are a serial offender on pay equity. They have a history of dragging these things through the courts. Their last pay equity issue they settled took 30 years because they appealed it all the way to the Supreme Court. And a lot of those women were dead before they got those cheques.

In fact, there’s another pay equity case with another union, the Canadian Postmasters and Assistants Association, which Canada Post is still dragging out. It was filed in 1993.

This is their track record and yes, we’re concerned about it.

Senator Wells: Again, welcome, Mr. Palecek.

In your press release that you co-authored earlier this week with Mr. Yussuff, you referenced long-term impacts on labour relations if this legislation passes. In fact, only a few minutes ago, you made a joke — I guess it was a joke — about mail not getting through.

If this legislation does pass, do you rule out work-to-rule tactics in the run-up to Christmas?

Mr. Palecek: The line that I’ve been using so far is the line of the Prime Minister, which is “all options are on the table.” We haven’t made any decisions yet. We’re hoping to negotiate an agreement. We would like to be able to do it before this legislation passes.

• (1800)

Senator Wells: In that release, it also said this legislation would be a clear violation of Charter rights. If this legislation does pass, do you anticipate a Charter challenge?

Mr. Palecek: I think that could certainly be in the cards.

Senator Wells: Thank you.

Senator Dean: First of all, Mr. Palecek, thank you for being with us this evening. I join Senator Lankin in thanking you for the hard work you do every day on behalf of your members and for your thoughtful comments to us this afternoon.

I have one question. It’s a common one I designed for both you and your employer counterpart, if I can put it that way. We would all like to see a voluntary agreement. I don’t think there is anybody in here who feels comfortable about the requirement for legislation.

But if there is going to be legislation, it would seem to me, anyway — and I think others here — to be important that at least three things are covered off. Senator McPhedran has dealt with one of them, so I won't repeat it, which is the guiding criteria for arbitration.

The other two, the first one goes to the importance of a process for choosing a mediator or mediator-arbitrator that would be even-handed, that isn't imposed from without but that gives the parties some agency in determining who a third party would be.

The second remaining one, leaving aside the criteria, is the proposed means of dispute resolution, straight arbitration or a separate mediator-arbitrator or a combined mediator-arbitrator, which is indeed what is proposed, maximizes the opportunity for there still to be a negotiated agreement.

I know you haven't spent much time with the legislation. Do you have any thoughts for us, while you're still here, on the proposed approach to selecting a third party and the proposed approach where there would be a mediator who would become, if necessary, an arbitrator later on in that process? Could you help us with those things, please?

Mr. Palecek: If I remember correctly, the legislation states that each party would submit their choices for mediators. If there was a common one, that would be the mediator. If not, it would go to the Minister of Labour to determine. Of course, that's always a concern when the ultimate authority is arrested in an individual to make a choice. I think we would prefer it if there was more opportunity to find commonality and agreement on a mediator.

Senator Dean: I note in the event there isn't an agreement between the employer and union, the Chairperson of the Canada Industrial Relations Board would have some say in trying to find — I don't think it would necessarily go to the minister.

Can I take it from what you have said, you have lived with other models of the appointment of arbitrators and you have lived with other models in which criteria have been present or absent. Is the current scheme proposed something that is more amenable, in your view, to an even-handed process than those you might have seen in the past?

Mr. Palecek: We don't believe there is any such thing as good back-to-work legislation. We would like the ability to work this out between the parties.

Senator Dean: As would we. Thank you.

The Chair: Is that all, Senator Dean?

Senator Dean: That's it. Thank you.

Senator Duffy: Thank you, Mr. President, for being here.

I have spent almost 50 years following the various negotiations involving your union, the post office and the Government of Canada. I don't know if you're aware of Professor Robert Paul Hebdon. He is at McGill University. He testified before a Senate committee this past week, saying his research, conducted over the past 30 years, found that a legislated settlement in a previous

contract is associated with a 27 per cent decrease in the probability of a bargained contract the next time around. The research data done by this independent researcher and his team would seem to support your position that with this legislation, we're simply continuing a problem rather than fixing it.

I have spoken to some of your members. I have seen some of the very powerful videos your group has posted on YouTube, which is the real voice of the people in terms of the 50,000 members you have. They are quite powerful and instructive. I would urge people to look on YouTube to hear the stories directly from your members, if they need any further convincing.

You talk about — I was struck by this — the two groups, 42,000 urban workers in your union and 8,000 in the rural and suburban mail carrier units. That reminds me a bit of the merger talks that took place between Air Canada and Canadian Pacific. Parties on both sides said, "No, it can't be done. We have seniority lists" and whatever. It was forced by the federal government, and it wasn't totally perfect, but it worked out.

Why would there be such a delay in bringing these 8,000 rural and suburban mail carriers into the larger family so they are not being discriminated against, as they are so clearly now? Why is it taking so long? Who is stopping it?

Mr. Palecek: It's not us stopping that. That's precisely what we're proposing. Call me a cynic, but I would say the only reason to keep them separate is so you can exploit one of them.

Senator Duffy: Pay them less.

Mr. Palecek: Exactly.

Senator Duffy: If we have this thing that allows 8,000 workers — many of them women — to be paid less than people doing the same work a mile or two away in the cities, there is a financial incentive there, i.e., to depress wages for those people.

If you tell us it's key to the Canada Post business plan to have forced overtime, aren't these things linked in a way? They like the business model they have now, even though it's not fair to their employees, because it delivers financial results they can be proud of and — I don't want to be a cynic — executive bonuses they can put in their pockets.

Mr. Palecek: Yes, I think that's a fair observation. I would say in our last round of bargaining, they said just that at the table. They said the RSMCs were a competitive advantage. Exploiting women was a competitive advantage.

Senator Duffy: Unbelievable. The previous witness, the Chair and Acting CEO of Canada Post, impressed everyone in this room. Does she know what she is dealing with, with 50 years of history of middle and lower management, with a culture of bullying and all kinds of activities that have gone back to the days before Joe Davidson and Jean-Claude Parrot? Or are the board of directors living in a world that they don't really know what the truth is from the shop floor?

• (1810)

Mr. Palecek: I think there have been some overtures and some initiatives from Ms. McDonald to try to improve the relationship with the union since she has arrived. But we find little substance to those initiatives. What we find is that we're promised the world, and then it doesn't get delivered. So I would say she is very close to burning her bridges with us.

Senator Duffy: Finally, she said she didn't ask for this legislation, and she seemed to give the impression that she got it when it came to issues like pay equity. If this legislation were put on hold, do you believe that within a reasonable time — a couple of weeks, say — that you could have a negotiated settlement? Is this legislation premature?

Mr. Palecek: The moment we have a party on the other side of the table who is willing to address these major issues, we would have an agreement. We could have an agreement today. The issues are very well known. The language is written. We have been discussing them for years. The only thing missing right now is the will.

Senator Duffy: Thank you very much.

The Chair: On behalf of all senators, I would like to thank you for joining us today to assist us with our work on the bill.

Honourable senators, is it agreed that we move to clause-by-clause consideration of Bill C-89, An Act to provide for the resumption and continuation of postal services?

Hon Senators: Agreed.

The title of the bill was read and postponed.

The preamble of the bill was read and postponed.

Clause 1, the short title of the bill, was read and postponed.

Clause 2 of the bill was read.

The question of concurrence being put on clause 2 of the bill, it was adopted.

Clause 3 of the bill was read.

The question of concurrence being put on clause 3 of the bill, it was adopted.

Clause 4 of the bill was read.

The question of concurrence being put on clause 4 of the bill, it was adopted.

Clause 5 of the bill was read.

The question of concurrence being put on clause 5 of the bill, it was adopted.

Clause 6 of the bill was read.

The question of concurrence being put on clause 6 of the bill, it was adopted.

Clause 7 of the bill was read.

The question of concurrence being put on clause 7 of the bill, it was adopted.

Clause 8 of the bill was read.

The question of concurrence being put on clause 8 of the bill, it was adopted.

Clause 9 of the bill was read.

The question of concurrence being put on clause 9 of the bill, it was adopted.

Clause 10 of the bill was read.

The question of concurrence being put on clause 10 of the bill, it was adopted.

Clause 11 of the bill was read.

The question of concurrence being put on clause 11 of the bill, it was adopted.

Clause 12 of the bill was read.

The question of concurrence being put on clause 12 of the bill, it was adopted.

Clause 13 of the bill was read.

The question of concurrence being put on clause 13 of the bill, it was adopted.

Clause 14 of the bill was read.

The question of concurrence being put on clause 14 of the bill, it was adopted.

Clause 15 of the bill was read.

The question of concurrence being put on clause 15 of the bill, it was adopted.

Clause 16 of the bill was read.

The question of concurrence being put on clause 16 of the bill, it was adopted.

Clause 1, the short title of the bill, was again read.

The question of concurrence being put on the title of the bill, it was adopted.

The preamble of the bill was again read.

The question of concurrence being put on the preamble of the bill, it was adopted.

The title of the bill was again read.

The question of concurrence being put on the title of the bill, it was adopted.

The question of concurrence being put on the bill, it was adopted, on division.

The question of concurrence in the motion that the chair report the bill to the Senate without amendment being put, it was adopted.

BUSINESS OF THE SENATE

Hon. Peter Harder (Government Representative in the Senate): Honourable senators, with leave of the Senate and notwithstanding rule 5-5(g), I move:

That, notwithstanding the order adopted by the Senate on November 22, 2018, when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, November 26, 2018, at 2 p.m.;

That rule 3-3(1) be suspended on that day; and

That committees scheduled to meet on that day be authorized to do so for the purpose of considering Government Business, even if the Senate is then sitting, with the application of rule 12-18(1) being suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

(At 6:16 p.m., the Senate was continued until Monday, November 26, 2018, at 2 p.m.)

The Hon. the Speaker: Honourable senators, the sitting of the Senate is resumed.

REPORT OF THE COMMITTEE OF THE WHOLE

Hon. Nicole Eaton: Honourable senators, the Committee of the Whole, to which was referred Bill C-89, An Act to provide for the resumption and continuation of postal services, has examined the said bill and directed me to report the same to the Senate without amendment.

The Hon. the Speaker: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Harder, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.)

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