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**Official Report
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Thursday 10 October 2013

**Journal
des débats
(Hansard)**

Jeudi 10 octobre 2013

**Standing Committee on
Finance and Economic Affairs**

Fairness and Competitiveness in
Ontario's Construction Industry
Act, 2013

**Comité permanent des finances
et des affaires économiques**

Loi de 2013 sur l'équité et la
compétitivité dans l'industrie
ontarienne de la construction

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Hansard Reporting and Interpretation Services
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Service du Journal des débats et d'interprétation
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
FINANCE AND ECONOMIC AFFAIRS

Thursday 10 October 2013

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES FINANCES
ET DES AFFAIRES ÉCONOMIQUES

Jeudi 10 octobre 2013

The committee met at 0900 in committee room 1.

The Chair (Mr. Kevin Daniel Flynn): Okay, ladies and gentlemen, if we could call to order. If members could take their seats, we'll get the meeting commenced. Welcome to those members in the audience to the Standing Committee on Finance and Economic Affairs. We're doing our public hearings today. We're operating under an agreement from the House.

SUBCOMMITTEE REPORT

The Chair (Mr. Kevin Daniel Flynn): I'm going to ask Mr. McNaughton if he would read the Standing Committee on Finance and Economic Affairs draft report of the subcommittee.

Mr. Monte McNaughton: Thank you, Chair.

Your subcommittee met on Monday, October 7, 2013, to consider the method of proceeding on Bill 74, An Act to amend the Labour Relations Act, 1995 to alter bargaining rights conferred by pre-1980 working agreements in the construction industry, and recommends the following:

(1) That, pursuant to the order of the House dated Thursday, October 3, 2013, the committee meet on Thursday, October 10, 2013, to conduct public hearings.

(2) That the public hearings be held from 9 to 10:30 a.m. and 2 to 6 p.m.

(3) That the Clerk of the Committee post information regarding public hearings on Bill 74 on the Ontario parliamentary channel, the committee's website and on Canada NewsWire.

(4) That the deadline for requests to appear be 9 a.m. on Wednesday, October 9, 2013.

(5) That the Clerk of the Committee provide the list of interested presenters to each caucus following the deadline for requests to appear.

(6) That each caucus provide the Clerk of the Committee seven selections and five alternatives by 12 noon on Wednesday, October 9, 2013.

(7) That all witnesses be offered 10 minutes for their presentation and five minutes for questioning from the members of the committee, and that questioning be done on a rotational basis by caucus.

(8) That the deadline for written submissions on Bill 74 be 5 p.m. on Friday, October 11, 2013.

(9) That, pursuant to the order of the House dated Thursday, October 3, 2013, amendments to the bill be

filed with the Clerk of the Committee by 12 noon on Wednesday, October 23, 2013.

(10) That, pursuant to the order of the House dated Thursday, October 3, 2013, the committee meet for clause-by-clause consideration of Bill 74 on Thursday, October 24, 2013.

(11) That the research officer provide a summary of the testimonies to the committee following the deadline for written submissions.

(12) That the Clerk of the Committee, in consultation with the Chair, be authorized, prior to the adoption of the report of the subcommittee, to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

The Chair (Mr. Kevin Daniel Flynn): Very good. Thank you very much.

Is there any discussion? Seeing none, all those in favour? Those opposed? The subcommittee report is carried.

FAIRNESS AND COMPETITIVENESS IN
ONTARIO'S CONSTRUCTION INDUSTRY
ACT, 2013LOI DE 2013 SUR L'ÉQUITÉ ET LA
COMPÉTITIVITÉ DANS L'INDUSTRIE
ONTARIENNE DE LA CONSTRUCTION

Consideration of the following bill:

Bill 74, An Act to amend the Labour Relations Act, 1995 to alter bargaining rights conferred by pre-1980 working agreements in the construction industry / Projet de loi 74, Loi modifiant la Loi de 1995 sur les relations de travail pour modifier le droit de négociier conféré par des accords de fait conclus avant 1980 dans l'industrie de la construction.

CENTRAL ONTARIO BUILDING TRADES

The Chair (Mr. Kevin Daniel Flynn): Let's move on to our first delegation of the day. That's James St. John, business manager of Central Ontario Building Trades. James, if you'd introduce obviously yourself and your colleague; you've got 15 minutes like everybody else. I think we're trying to piece that out at about 10 minutes speaking and five minutes for questions, but you use that any way you like. The floor is yours.

Mr. James St. John: Good morning. Thank you for having us. My name is James St. John. I'm the business manager of the Central Ontario Building Trades, along with our counsel, Alan Minsky, from Koskie Minsky.

The COBT—and the 80,000 men and women whom we represent—strongly opposes Bill 74. It improperly interferes and terminates bargaining rights which were voluntarily established under the 1958 Sarnia building trades working agreement with EllisDon and, for that matter, all other pre-May 1, 1979, working agreements entered into by the building trades in Ontario, with the limited exception of 11 contractors, as explained in our letter dated September 26, 2013, to the Premier and all MPPs. I have copies of that letter, if anyone needs one.

In interfering and terminating bargaining rights created by the Sarnia building trades and, for that matter, the vast bulk of the other working agreements entered into by the building trades council in Ontario prior to May 1, 1979, Bill 74 interferes with the OLRB powers to regulate collective bargaining in Ontario under the Labour Relations Act and, anomalously, does so at the request of a single contractor.

As pointed out in the letter to Premier Wynne, Bill 74 is the antithesis of promoting and strengthening democratic practices in collective bargaining in Ontario, since it represents a unilateral and arbitrary initiative by the government at the instance of a single contractor to interfere/terminate bargaining rights under all working agreements entered into prior to May 1, 1979, with certain limited exceptions. The bill is contrary to the purpose of the act, which includes in section 2 of the act, "To facilitate collective bargaining between employers and trade unions that are the freely designated representatives of the employees."

Bill 74 does not promote collective bargaining in workplaces in Ontario, but arbitrarily terminates them without consultation with the affected employees and/or regulation or supervision by the Ontario Labour Relations Board under the act. Bill 74 therefore undermines collective bargaining and the role of the board in regulating collective bargaining in Ontario under the act.

Bill 74 is reminiscent of section 160.1 of Bill 69, enacted in 2000, which permitted the Lieutenant Governor in Council, by regulation, to deem bargaining rights by an employee bargaining agency and its affiliated bargaining agents to be abandoned with respect to an employer or class of employers with respect to all or any parts of Ontario. Ontario regulation 105/01 was issued in 2001 and relieved some general contractors from the effect of their respective Toronto building trades working agreements outside Ontario Labour Relations Board geographic area 8, and these deemed abandonment provisions were then repealed by the Legislature in December 2001, as a result of which other working agreement signatories could no longer apply for the termination of their bargaining rights created under these working agreements. In effect, Bill 74 places the provisions of section 160.1 of Bill 69 back into the act and brings the

death knell to working agreements in Ontario, save and except for the limited exceptions permitted under Bill 74.

Our legal counsel will add some further comments.

Mr. Alan Minsky: Good morning. I'm going to try to give you a little bit of background on working agreements and highlight Bill 74 as it involves working agreements, in addition to the 1958 Sarnia building trades working agreement with EllisDon.

The labour board has judged a number of cases over the last 20, 30, perhaps even 40 years involving working agreements. In 1984, in the Guthrie case, it said that working agreements have become very much a part of the unionized portion of the construction industry in Toronto and have been regarded as peace treaties and instruments for harmony in the construction industry.

Regardless of these characterizations, the working agreement has traditionally been used as an entry to unionized construction work and as a method for an employer to stay on side from the point of view of the craft trade unions and the construction industry.

The COBT, the Central Ontario Building Trades, my client, has operated under various names really since, I guess, the 1940s, and one of them was the Toronto Central Building and Construction Trades Council. It actually signed several hundreds of working agreements—not one or two or 10, but literally hundreds, going back to the late 1940s, early 1950s. The problem for the COBT in terms of Bill 74 for sure is the effect on the Sarnia agreement—absolutely opposed by COBT—but was amazed to see, when the fine print of Bill 74 was analyzed, that it reached out and swept into it all working agreements in Ontario entered into prior to May 1, 1979, with the exception of the working agreement for the 11 contractors mentioned in regulation 105, and where there had been settlements or certs in respect of working agreement signatories.

0910

That's the effect of subsections 163.6(1), (2), (3) and (4). When it comes to defining "working agreements" in subsection (1) of 163.6, it refers to all of them prior to May 1, 1979. When it talks about which ones specifically, it says in (3):

"The working agreements to which subsection (2)"—that's the termination provision—"applies include the working agreement" between the Sarnia building trades and EllisDon.

So whereas a number of people have focused, really, on the effect on the Sarnia agreement entered into with EllisDon in 1958, in fact, the proposed legislation is far broader than that, and it affects all working agreements, with the exceptions for the 11 contractors signatory to the Toronto agreement and where there had been settlements or certs or voluntary recognitions. It's very broad legislation.

My client is unaware whether other contractors have sought that protection or whether, just gratuitously, the bill adds it in—whether anonymously the bill just adds it in; because it looked like the bill was to focus on the EllisDon agreement. Again, we oppose that—but even

more so, this overriding sweeping-in of all working agreements across Ontario entered into pre-May 1, 1979, with the exception of the 11 contractors who are actually noted on regulation 105/01.

What's interesting is, when 160.1 was enacted back in 2000—repealed, as James said, in 2001—it actually allowed contractors to come to the minister and have their names placed on the regulation, and thereby deem abandoned their bargaining rights outside board area 8—that's the greater Toronto area—but retain bargaining rights to the building trades in 8. This legislation is strange in the sense that it now sweeps out all bargaining rights, board area 8 and otherwise, for all the other contractors. Contractors who didn't even apply in 2000 to have their names listed on regulation 105/01—now their bargaining rights across the province are swept away.

To make a long story into a short story, there's something wrong with this legislation in terms of its grand effect, not only in interfering with bargaining rights—including, most importantly, Sarnia's—but how it affects working agreements that, for example, were entered into for so many years and have had a positive effect on the labour relations climate and environment in Toronto. The COBT is proud of those working agreements, and I don't see those other contractors in this room saying, "Yes, we want to climb on board Bill 74."

I think I've probably used our 10 minutes now, so I've got to leave some time for some questions.

The Chair (Mr. Kevin Daniel Flynn): Very good. Thank you. I neglected to mention at the start that we're doing the questions and answers on a rotational basis.

We'll start with the Conservatives. Mr. McNaughton.

Mr. Monte McNaughton: Great. Well, thank you very much, Chair.

Before I ask some questions of you gentlemen, I'd like to welcome all the hard-working people from EllisDon today who took the time to join us at Queen's Park. I think this your second day in the Legislature this week, so thank you very much for coming.

To the presenters, thank you very much as well for being the first presenter today.

I just wondered if you could explain what your relationship is with LIUNA and the carpenters.

Mr. Alan Minsky: My own personal?

Mr. Monte McNaughton: Between the Central Ontario Building Trades and those two—

Mr. Alan Minsky: I'll let James answer that, then.

Mr. James St. John: The carpenters are not a part of the building trades. The building trades is an umbrella group over most of the trade unions within our geographical area that we represent. So the carpenters are not a part of that. LIUNA is a part of that.

Mr. Monte McNaughton: Okay. Would it not be more appropriate to call the controversy over this bill more of an internal family squabble between different unions?

Mr. James St. John: None whatsoever. No, not at all. The affiliates of the building trades strongly oppose this bill, collectively.

Mr. Monte McNaughton: Okay. Listen, I was the one who brought this bill forward and, of course, have had quite the amount of support from LIUNA and the carpenters on this bill. So that's the reason for the question.

Mr. James St. John: You mentioned two trades. Publicly, I haven't seen LIUNA come out with anything, and I dare say I don't think you have any supporting letter from LIUNA, so it's your word saying that LIUNA is supporting this.

The carpenters definitely support the bill. We know they support the bill. But you failed to have dialogue with the rest of the industry. The carpenters and LIUNA are two parts of the industry. We have several other trade unions that this bill is going to affect deeply, and we are here banding together opposing this bill.

I can appreciate your comments with respect to the carpenters. I don't agree with respect to LIUNA. We definitely don't agree with it when it comes to the rest of the labour movement.

Mr. Monte McNaughton: Okay. Thanks very much for coming today.

The Chair (Mr. Kevin Daniel Flynn): Thank you. Any other questions from the Conservative side?

Thank you very much for being here today.

ELLISDON

The Chair (Mr. Kevin Daniel Flynn): Our next presenter is EllisDon, represented today by Thomas Howell and Walter Thornton, if you'd come forward. Okay, if you'd make yourselves comfortable. I think there's some water there for you. Like everybody else, 15 minutes; use that any way you see fit. The questions this time will come from the New Democratic Party. If you would introduce yourselves for Hansard, the floor is yours.

Mr. Tom Howell: Good morning, everyone. My name is Tom Howell. I'm the vice-president of labour relations for the EllisDon Corporation. I'm joined here today by our legal counsel, Walter Thornton, and a number of our EllisDon employees in support of Bill 74. We'd like to thank the committee for giving us the opportunity today to speak to Bill 74 and answer any questions that you may have.

I guess what I'd like to do is begin by giving you a little information and saying that EllisDon is an employee-owned company that began in London, Ontario, in 1951. For decades, we have been a leader in the construction industry, and we are proud to be a unionized construction employer. We have many important relationships with those unions, both in Ontario and across Canada, and we expect those will continue long after these hearings.

While I expect that you will hear opposition today by many others regarding the bill, I doubt very much that you're going to hear any question regarding the importance of EllisDon's presence in Ontario or its integrity within the construction industry.

That said, I'll get on with business, starting first with why we find ourselves here today.

In February 2012, the Ontario Labour Relations Board ruled that a 1958 working agreement between EllisDon and two Sarnia building trades remains in force. The board did so having been convinced that the disputed agreement was proved as a business record and, once proved, EllisDon was automatically captured. The validity of that agreement was disputed by EllisDon, and the Divisional Court has since upheld EllisDon's position that the disputed agreement was not proved as a business record.

The board made a number of findings of fact, which caused it significant concern, and which ultimately lead it to conclude that the two unions in question should be estopped from asserting any claims for a period of two years in order to permit EllisDon to pursue this appeal to the Legislature.

The board said, "I find that the representation was made, by the unions that might then have claimed and now do claim bargaining rights through the Sarnia working agreement.... They represented that they would not enforce bargaining rights arising out of the Sarnia working agreement beyond what was found in the 1987 minutes of settlement such that it would 'torpedo' the effect of a modification to the Toronto working agreement."

0920

Now, we all know that, following the board's decision, the matter was referred to the courts. That occurred on September 27, wherein the majority of the three justices ruled that the Ontario Labour Relations Board erred in law and acted unreasonably when it found that the Sarnia working agreement was a proven business record. Further, the courts upheld the vice-chair's reasoning for establishing the estoppel—which is the two-year bar—but found that the only rational conclusion for the estoppel is that the estoppel must be permanent. With findings like that highlighted in the labour board's decision, and in light of the court's recent decision, one might ask why on earth the unions are here opposing Bill 74.

So why are we here today? Well, we're here, simply—for a number of reasons, obviously, but they boil down to the same thing: We're here because the affected unions have continued to seek to renege on the promise to EllisDon in 2000, which is confirmed in the labour board's decision and in the Divisional Court judgment. We are here because the unions apparently do not accept the Divisional Court's judgment and don't want Bill 74 to foreclose the possibility of ongoing litigation, despite the fact that there is no dispute whatsoever about what EllisDon was promised in 2000.

Why is it appropriate and why should the committee support this bill? First, it will result in finality with respect to these proceedings and any potential proceedings in relation to disputes over the application of the alleged Sarnia agreement.

Second, even if the trade unions that are not party to the decision or the judgment were prepared to forgo or waive claims based on the alleged agreement, which appears quite unlikely, it would be extremely difficult, if not impossible, to secure any enforceable agreement. Bill 74 does just that.

Third, there is quite simply no good reason for anyone to be concerned about the effect or application of Bill 74 in relation to the Toronto working agreement, and that's what you just heard about. All agreements affecting general contractors that were established through the Toronto working agreement were addressed in the 2001 deemed-abandonment regulations, and none of those agreements will be affected by Bill 74.

It is highly unlikely, if not entirely out of the question, that any general contractor that signed a working agreement effective beyond the GTA is currently operating in compliance with that agreement. There is similarly no good reason for anyone to be concerned about the effects of Bill 74 in relation to any working agreement that is being applied in any area of Ontario beyond the GTA.

I'd like to conclude by simply saying that Bill 74 is fair and will require those unions that seek to challenge the bill to abide by the promise that was made to EllisDon on their behalf by the Ontario building trades council in 2000.

With those comments, I'll be happy to take any questions.

The Chair (Mr. Kevin Daniel Flynn): Thank you. The questioning this time around goes to the New Democratic Party. Mr. Prue?

Mr. Michael Prue: I have the first question. I'm going to turn the floor after that over to my colleague Ms. Fife.

My first question: I start from the position that EllisDon is the most successful construction-type company in all of Ontario, bar none. Tell me if I'm wrong.

Mr. Tom Howell: I will tell you, as an employee of EllisDon, that you're correct, obviously.

Mr. Michael Prue: And that you are a billions-of-dollars company, and that, with the agreements in place that have been in here for years, you have been able to make billions of dollars and grow and prosper, and that the agreement you have been bound to for all of these years has not hurt you one tick, not one bit.

Mr. Tom Howell: Well, I would completely disagree with that statement.

Mr. Michael Prue: How have you been hurt?

Mr. Tom Howell: How have we been hurt?

Mr. Michael Prue: Yes.

Mr. Tom Howell: Well, we haven't been applying those collective agreements, which is why I disagree with the statement. Those agreements haven't been in application. They haven't been applied. We have not been awarding work purely to union contractors outside of the GTA since 2001.

If I were asked to bring statistical evidence with regard to what happened to us in the 1990s, I would have done so, but there was a substantial decline in hours and

revenues throughout the 1990s, when contractors were bound to all 25, and that has since reversed after 2001.

Mr. Michael Prue: My real question—I'm now getting to it. Is there any evidence that you can give this committee that EllisDon being bound to the sheet metal ICI collective agreement detrimentally affects, in any way, EllisDon's competitive position?

Mr. Tom Howell: Absolutely.

Mr. Michael Prue: Please give the evidence.

Mr. Tom Howell: The bid process for general contractors involves typically the lowest qualified bid. If we go into a market like Sault Ste. Marie or Sudbury or an area and our qualified pool of subtrades is limited to only those trades that are bound to a collective agreement with those unions, we are significantly limiting the competitive bid process. Our competitors are not bound to that process—many of them. Most of our foreign competitors that have come into our markets have no collective agreements whatsoever, and they are allowed to carry the lowest qualified price. It's the sum of those lowest qualified prices that gets the job. I can tell you, certainly, that that won't be EllisDon if we're carrying contractors from Toronto up to Sudbury because we don't get qualified bids in Sudbury or Sault Ste. Marie or other areas of the province.

Ms. Catherine Fife: Thank you very much. In addition to welcoming EllisDon, I'd also like to welcome the other unions who have come here today to voice their concern over this piece of legislation, and thank you very much for the presentation.

Just to continue on my colleague's line of questioning, isn't it true that projects where EllisDon faces real competition from European and other competitors is on heavy civil infrastructure projects, while the collective agreement at issue is only ICI?

Mr. Tom Howell: I would disagree with that. In fact, we are partners with some of those very companies on some large projects that include a vast amount of ICI work.

Ms. Catherine Fife: Then would you also challenge the statement that the sheet metal collective agreement specifically allows the business manager of the local union to address competitiveness of its contractors if they are faced with undercutting or productivity concerns?

Mr. Tom Howell: I realize what you are referring to is a stabilization fund, I take it, and I'm aware that they have a stabilization fund, and that would be applied to their subtrades, not to EllisDon. I would add that EllisDon does not and has never employed a sheet metal worker, an IBEW member or a plumber in its 63 years in business.

Ms. Catherine Fife: But couldn't EllisDon simply seek to negotiate with the local sheet metal workers' local if you truly did have competitive concerns?

Mr. Tom Howell: No. I don't see that that is at all practical. The companies that would typically do that would be those subtrades. What you're referring to is enabling. I used to enable quite a number of jobs in my past life, and I can tell you that it was a very broken

system that was typically quite a rush at the bid closing process to try to get people to agree to certain concessions to make unionized generals competitive against their non-union competitors. That is a very flawed system. EllisDon would not be in a position, as I see it, under any such agreement to call up the sheet metal union and ask for concessions, and that they would be applied in a timely manner to subtrades who might be bidding. That wouldn't include qualified subtrades that aren't bound to the union.

Ms. Catherine Fife: Doesn't Bill 74, as worded, though, affect more than the bargaining rights of the affiliated bargaining agents flowing from the EllisDon and Sarnia BTC working agreements only? You've heard the previous delegation.

Mr. Tom Howell: Correct.

Ms. Catherine Fife: This private member's bill pulls everybody along with it to benefit one company in the province of Ontario. How do you rationalize that with your language around being a strong union supporter?

Mr. Tom Howell: First of all, I didn't draft the legislation. I understand it was drafted by legislative—

Ms. Catherine Fife: But you're here supporting it.

Mr. Tom Howell: The primary reason for the legislation, I would say, is that it includes the EllisDon-Sarnia working agreement. I don't think it can reasonably be read to include those other agreements that my friends before claim it does. I would add that I don't think there's a single agreement, which is what I was making comments about in my presentation, that has been affected by that. In my previous role, I represented most of our competitors as well, and I happen to know what agreements they were bound to, and I can tell you that we're not aware of any contractor who is bound to one of those agreements that operates beyond the GTA. I think it's smoke and mirrors to say that it would affect anyone.

Ms. Catherine Fife: I think on this side of the House, anyway, we share the concerns of the previous delegation, as do the remainder of the unions that are also in this room.

Mr. Prue?

Mr. Michael Prue: I have a question, and I'm a little bit puzzled by the statement that you made today, and I have it in front of me here. You said, "We are here because the unions apparently do not accept the Divisional Court's judgment and don't want Bill 74 to foreclose the possibility of ongoing litigation..." EllisDon litigated the OLRB to the Divisional Court; why can't the unions take the Divisional Court higher up if they're not satisfied with that decision and think it's every bit as wrong as you think it's right?

0930

Mr. Tom Howell: I expect they will.

Mr. Michael Prue: So you're here because you want Bill 74 to stop them from following their legal rights.

Mr. Tom Howell: No. First of all, Bill 74 is a by-product of the labour board's decision. The labour board has made a number of findings of fact. It found and issued an estoppel on the basis of promises that were

made at the time of the deemed abandonment. Those were compromises made by all of the parties, and we're simply here trying to impress upon you that when people make deals, they should abide by them.

Bill 74 doesn't do anything offensive in that way. Bill 74 simply does what the labour board said and what is consistent with the decision of the Divisional Court: It enforces a previous agreement, and those are findings of fact, that those representations were made.

Mr. Michael Prue: But Bill 74, if passed, would negatively impact the union's appeal further up the court chain, would it not?

Mr. Tom Howell: You'll have to ask the unions what they think of that.

The Chair (Mr. Kevin Daniel Flynn): Gentlemen, we're out of time. Thank you for attending here today.

PROVINCIAL BUILDING
AND CONSTRUCTION TRADES
COUNCIL OF ONTARIO

The Chair (Mr. Kevin Daniel Flynn): We can move on to our next delegation. Our next delegation today is from the Provincial Building and Construction Trades Council of Ontario: Patrick Dillon, business manager. Pat, if you'd come forward; make yourself comfortable. You've been here before, Mr. Dillon; you know what the rules are. You get 15 minutes, like everybody else. If you would leave some time of about five minutes near the end for questions, they'll come from the Liberal Party this time. The floor is yours. Welcome.

Mr. Patrick Dillon: Thank you very much. With me this morning is Larry O'Neill, international rep with the sheet metal workers and roofers.

My name is Pat Dillon, business manager of the provincial building trades, representing 11 construction unions and 150,000 workers in the province of Ontario. First off, thanks for the invitation to speak to Bill 74. In the limited time I have, I will outline several reasons why our organization is opposed to this proposed piece of legislation and why we are concerned about the prospect of it coming into law. The bill sets a bad precedent, is unfair to workers and is, in fact, unnecessary.

Before I get to the bill, I would like to point out that this bill is one of several pieces of proposed legislation coming from members of the PC Party, who have systematically attacked in one way or another the collective bargaining rights of Ontario workers. This is a cause of major concern for us. We've seen Bill 73, which was defeated; Bill 80, which was defeated; Bill 94, which should be defeated; and Bill 74, which should be defeated. The clear pattern in these bills is that they privilege Bay Street over Main Street, and that is completely unacceptable for Ontario's working men and women.

First, I recognize that Bill 74 is about one specific general contractor in the province of Ontario, EllisDon—and by the way, I have no problem with it. I was saying that EllisDon is a respected general contractor in the province of Ontario. It is legislation that explicitly deals

with that one company; however, if passed, the bill has the potential to act as a catalyst in affecting many other general contractors, which may severely impact Ontario's construction industry as a whole by setting a precedent of legislative intervention in what is essentially a workplace issue.

Bill 74 would exempt EllisDon from being bound to the Sarnia working agreement that it signed with the Building and Construction Trades Council of Sarnia and Lambton County, eliminating with the stroke of a pen the legal bargaining rights of thousands of Ontario workers. That original agreement that EllisDon signed with the Sarnia building trades in 1958 helped lay the foundations of the company's business operations, and was an agreement that was freely entered into by both parties, who negotiated in good faith to have a contractual relationship from which EllisDon grew as a company.

Working agreements: We have met with Mr. Geoff Smith, himself, of EllisDon to discuss this issue. He expressed very clearly that it was not and is not the intent to impact any other working agreements, but you've heard this morning from Mr. Minsky and Mr. St. John that the potential is there for it to impact other working agreements. But obviously, Mr. Smith is not the author of the bill; Mr. McNaughton is. What Mr. Smith says may be what he believes, but that's not the way we see the bill as written.

Bill 74 talks about working agreements, which would indicate that the breadth of the bill goes beyond the 1958 Sarnia working agreement. We also would question the appropriateness of considering Bill 74 while at the same time there is a case pending before the courts. That was just mentioned in the questions with the last presenters.

For several months, EllisDon has been lobbying members of the Legislature to pass a bill that would excuse it from the Sarnia-area working agreement, which the company claims would help alleviate what it says is a "competitive disadvantage." I have to emphasize the fact that there could be a competitive disadvantage, but this has thus far only been proclaimed, and not demonstrated with any hard evidence whatsoever.

We therefore don't know for a fact if EllisDon is in the position it claims it's in. The reality is that if Bill 74 passes and EllisDon gets an exemption, that will produce a competitive disadvantage for other general contractors in the province of Ontario, such as Aecon construction, Alberici Corp., E.S. Fox—any number of other companies.

This is patently unfair to those contractors who are currently bound to working agreements negotiated in good faith, and may in fact lead to similar legislative interventions that these other contractors may call for, citing competitive pressures, to get similar alleviation from provincial Parliament. Such a scenario leaves construction workers stranded, and tilts balanced labour relations quite heavily in favour of employers, who will then have a false incentive to apply the competitiveness card.

Secondly, I wish to make clear to this committee that if EllisDon truly believes it is suffering from a competi-

tive disadvantage, we believe there are remedies at its disposal, pursuant to the Labour Relations Act, 1995. Namely, under section 163.2 of the act, EllisDon may apply for amendments to applicable agreements concerning issues like wages and other provisions that would make the employer more competitive. As far as we know, EllisDon has not made such applications, to date.

In any case, if there really is a problem with EllisDon's competitiveness, then the Legislature is not the place to correct that problem; the bargaining table is. Without hard evidence, and with section 163.2 at its disposal, it would be irresponsible to grant EllisDon the type of broad relief that is afforded to it by Bill 74, not to mention the competitive disadvantages that this may bring to other general contractors in the province of Ontario, sparking a race to the bottom that will gut working agreements and destroy free collective bargaining.

Some members of the Legislature, in speaking about Bill 74 during second reading, have referred to it as a way of correcting an anomaly, or a one-off remedial action that is of no great concern. On behalf of the workers that we represent, we couldn't disagree more with that kind of sentiment because we see this bill as both dangerous and completely unnecessary. Bill 74 will abrogate collective bargaining rights, and this kind of action will hurt Ontario workers and the province's economy.

As members of the Standing Committee on Finance and Economic Affairs, we therefore strongly urge you to think carefully about the ramifications of this proposed law, and we request that you defeat Bill 74 in the interest of balanced labour relations in the province of Ontario.

Just before I turn to the questions, there was a comment made here by Mr. Howell from EllisDon, whom I respect, but he quotes a comment that EllisDon was promised a particular action in the year 2000, and the decision from the labour board states that. That is not what was stated at the labour board. The person who supposedly made that promise is me. I testified at the Ontario Labour Relations Board that I did not make that promise—(1) didn't make it and (2) didn't have the authority to make it. I am not a bargaining agent for construction unions.

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So, yes, that accusation was made at the board. I denied that that had taken place, and the chair of the labour board chose to give his opinion of what was said, but that, in fact, is not true. And that's not the only error that the gentleman who was the chair of the labour board made in that case. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Mr. Dillon. We've got about six minutes for questions. Mr. Del Duca.

Mr. Steven Del Duca: Thanks very much, Mr. Chair. Good morning, Mr. Dillon.

Mr. Patrick Dillon: Good morning, Mr. Del Duca.

Mr. Steven Del Duca: Thank you very much for being here with us today and for your comments. I have a

couple of questions and then, if there's time—and I'm sure there will be—my colleagues may have some questions as well.

In your opening statement, you referenced the fact that in the Labour Relations Act you believe there are other remedies that might be available for a company that finds itself in this position. Can you spend just a brief moment of time explaining what you believe those remedies are and help us understand better what you—

Mr. Patrick Dillon: I pointed out that 163.2 is a piece of legislation that was put in by the former Conservative government, which sets up designated regional employer organizations, so that if employers feel they're uncompetitive in a particular area of the province, they can bring evidence forward. If the unions don't agree—I think you ought to take that first step, at least try to talk to the unions about flexing and making a company competitive. But there's also part of that section 163.2 that, if the unions don't agree, there's an arbitration mechanism that you put your evidence on the table, and if your evidence is right, either the unions agree or the arbitrator will.

Mr. Steven Del Duca: The other question I had was—you're the third person to come before us this morning, and we've heard, obviously, differing opinions with respect to this notion about whether the language—

Mr. Patrick Dillon: Are you surprised?

Mr. Steven Del Duca: No, not at all. Not at all. In the year that I've been here, not much surprises me anymore, I've got to be honest with you.

Two of the presenters so far, yourself included, have led us to believe or have told us that the language in Bill 74 is perhaps potentially more broadly applicable, let's say, so that it's not dealing with one specific situation and one specific company. The first presenter, Mr. St. John, did mention a letter that I know was sent to members of the Legislature. Then we heard, of course, from EllisDon, which said they don't believe the language is that broad.

I'm just wondering, from your perspective—because we obviously have two differing opinions that have been presented to the committee so far about whether the language is too broad or it's not too broad or who might have drafted the bill or whatever the case may be—if, in fact, there is a concern that what's currently in Bill 74 is too broad, applies too broadly, and may adversely impact more working agreements than just those that affect EllisDon.

From my perspective, it seems that's the kind of thing that could be amended at committee, if need be, to make sure that the language is more surgical. I'm just wondering what your perspective would be if, in fact, that was an approach the committee decided—

Mr. Patrick Dillon: I guess, Steve, that is an interpretation that can be given. Mr. Smith himself told me that that was not his intent, but my legal advice is that that is what the legislation says. So that is one problem for us. The real problem for us is that we believe that a competitive problem, particularly for a single contractor,

or even a group of contractors, ought to be fixed at the bargaining table. That's the fundamental rationale of why I'm here.

I have been around probably almost as long as Bob, for quite a few years, and I've never gone long in the industry that I haven't heard contractors here or contractors there talking about some competitive disadvantage that they're at. Sometimes union contractors have competitive disadvantages with other union contractors, so the competitive card, I think, is one that gets played loosely.

I again go back to my statement, though, that if there is a demonstrated competitive disadvantage, the bargaining table is the place to look at it, and I would be very forceful with the unions that they should be looking at it.

Ms. Mitzie Hunter: Hello, Mr. Dillon.

Mr. Patrick Dillon: How are you?

Ms. Mitzie Hunter: Very well. Thank you for appearing this morning. We've heard Mr. Howell talk about his concerns about how this situation could potentially disadvantage EllisDon. Would you talk about how the Sarnia working agreement affects you?

Mr. Patrick Dillon: I don't understand. What do you mean? How does it affect me?

Ms. Mitzie Hunter: And what you're representing to the committee.

Mr. Patrick Dillon: Well, the—

The Chair (Mr. Kevin Daniel Flynn): You'll have to do that in about a minute, Pat.

Mr. Patrick Dillon: Okay. I don't want to get into the argument about what the labour board said and what the courts have said. Working agreements are something that, if two parties have agreed to sign and work under those conditions, to me, it protects—it gives workers—that's why we sign collective agreements: so that we have some idea of what conditions we would work under. The Sarnia agreement provides that, if it's expanded across the province, for three trades.

Ms. Mitzie Hunter: Is there a current contract that you're aware of that would be impacted?

Mr. Patrick Dillon: Absolutely. I named four different contractors, but I could name you 24 contractors that are all trades contractors in the province of Ontario, which means they're signed with all the trades, not just the three trades that would be added on to the Sarnia working agreement. Aecon construction, which is one that I think we're all familiar with here, would be impacted by this Bill 74 in a negative way.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Pat. Thank you for appearing today. We appreciate it.

Mr. Patrick Dillon: Thank you very much.

CARPENTERS' DISTRICT COUNCIL OF ONTARIO

The Chair (Mr. Kevin Daniel Flynn): Our next delegation this morning is from the Carpenters' District Council of Ontario. John Moszynski, Mark Lewis and

Paul Davis, if you'd come forward and make yourselves comfortable.

Mr. Paul Daly: It's Paul Daly.

The Chair (Mr. Kevin Daniel Flynn): Daly. Oh, what did I call you?

Mr. Paul Daly: Davis.

The Chair (Mr. Kevin Daniel Flynn): Sorry about that. Paul Daly. Welcome, Paul.

Mr. Paul Daly: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Okay, like everybody else, you get 15 minutes. You use that any way you see fit, but we prefer you leave about five minutes at the end for questions, and the questions this time will come from the Conservative Party.

Mr. John Moszynski: Thank you. My name is John Moszynski. I'm senior general counsel for the Carpenters' District Council of Ontario. To my left is Mark Lewis, who is general counsel for our organization. He'll be doing most of the speaking this morning.

Mr. Mark Lewis: And you've already met Mr. Daly, who is a representative of the district council.

Very briefly, the Carpenters' District Council is the council of all 16 construction local unions of the carpenters, from one end of the province to the other, including Sarnia. We have just under 25,000 union members working on construction sites every day, including on the front of your building here, doing that fine scaffolding.

We are here to support the bill. Particularly, we are here to support what we see as the underlying principle of the bill, namely, to give some finality, some closure, to the consequences for EllisDon of a 1958 Sarnia working agreement and, in particular, to give certainty and finality to whether that agreement should lead to bargaining rights for the entire province for all of the building trades unions.

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We are obviously collectively a trade union, and individually we are trade unionists. We obtain, fight for, defend and enforce bargaining rights—collective agreements—or a living, and are very proud of that fact. So it's not very comfortable, it's not normal, it's not what we usually do, to come here and speak in favour of legislation which essentially eliminates bargaining rights.

Mr. Michael Prue: Then why are you doing it?

Mr. Mark Lewis: I'm getting to that, Mr. Prue.

We are here because, as everyone has said so far, EllisDon is a very important portion, a very important player, within the unionized sector of the construction industry. We feel our relationships with EllisDon are very important, as I think all of the unions that spoke here and will speak today do.

Our fundamental point that we think needs to be considered and reflected, whatever the Legislature ultimately decides to do, is that when promises are made, when arrangements are come to within our industry, they have to be lived up to, because that is the underlying principle, the foundation of labour relations, particularly in the construction industry. That's why we are here to support this bill.

What we feel—and you’ve obviously heard some of this already today and I’m sure you’ll hear a lot more. But we feel it’s vital, when you consider this bill and its intention and its effect—you have to be aware of the particular context. There is the broad historical context that comes out of what happened in the 1950s, 1960s and early 1970s. Construction unions and building trades councils in all the different parts of the province and employers would sign working agreements, some of which were project-specific, all of which—to my knowledge, in any event—were area-specific; they covered particular geographic areas. Whatever the people who signed those agreements thought they were doing, it defies imagination, from our perspective, to believe that they thought that what they were doing was going to transform into bargaining rights for all of Ontario for all of the building trades unions, which is up to 25 unions, but that’s exactly what happened, based on the legislation.

As EllisDon has spoken about so far, by the mid-1990s that had caused particular problems for certain general contractors, and that became an extremely hot topic in our industry. It resulted—and this is, I think, very well articulated by Vice-Chair McKee in the board decision which ultimately results in this bill—in broad, industry-wide discussions between the general contractors and the unions and others as to what we were going to do. All of that was in an overall political climate, which I’m sure I don’t have to remind anybody in this room—there was a government in this province which had very particular and strong views about unions. It was not a situation which any of the unions, in particular the carpenters’ union, relished. It didn’t make us happy, but discussions took place and an arrangement was eventually reached that everyone, at least at some point, felt they could live with and that could work for our industry and the participants within our industry.

That is not my opinion. That is the finding of fact of Vice-Chair McKee, who is the finder of fact in this matter when he dealt with it as the vice-chair of the labour board.

Within that context of coming to that arrangement, he also found, as a fact, that a promise was given to EllisDon on behalf of all of us construction unions that the Sarnia working agreement was not going to be relied on. I wasn’t there in those backroom discussions in 1990-2000. Neither were any of my colleagues here today. But Mr. McKee, who is a very, very experienced vice-chair of the board, made that determination based on the sworn evidence that he heard.

Our view is quite simple: Having found that that promise was made to EllisDon, that promise should be lived up to. That is what the courts have also recently concluded, and that is the principle which leads us, the carpenters, to take the somewhat unusual position of saying this bill should be passed.

I would state my only caveat, and this comes from some of the discussions which have come up today—or our only caveat, I should say, from the carpenters’ district

council, and there have already been questions about this: We believe that the bill is quite broadly written. It clearly is not limited to EllisDon. From our perspective, that’s somewhat unfortunate. We obviously didn’t draft this. Had we done it, perhaps we would have gone with the more targeted approach which, the last time this issue was dealt with, back in 1999 and 2000, it was dealt with. There are, from our perspective, some fairly simple amendments that could be made to try and make it more specific, one being the date, for example. The bill refers to working agreements signed prior to 1979. To deal with some of the concerns that have been expressed, it could be very simply amended to say anything before January 1, 1959. That would then include the EllisDon working agreement but would exclude all of those 1960s working agreements. But I’m not sure what working agreements anybody else is referring to. I haven’t actually seen any other working agreements that other unions think would be eliminated by what is obviously the broader language of the bill.

With that, I think we’re at our time limit, so I will stop now, though I’m sure we could all speak for hours on this, because we’ve spent lots of our working lives looking at it. We’ll try to answer any questions you may have.

The Chair (Mr. Kevin Daniel Flynn): We’ve got a little bit less than four minutes. Mr. McNaughton, are you doing the questioning?

Mr. Monte McNaughton: I am. Thank you very much, gentlemen, for being here today. Also, I’d like to thank you and John for the letter of support for my private member’s bill that was sent out on September 20.

I just wondered, Mr. Lewis, if you could just talk a bit about your background with the OLRB. Were you the vice-chair?

Mr. Mark Lewis: My background with the OLRB? I have been practising before the OLRB, the Ontario Labour Relations Board, since I became a lawyer—I can’t even remember when that was now—over 20 years ago. Immediately prior to this particular position, which I hold now, I was a vice-chair at the Ontario Labour Relations Board for just over five years, so I was a colleague of Vice-Chair McKee.

Mr. Monte McNaughton: Great. We’ve heard from other presenters today, and I’m sure, going forward, we’re going to hear from some more, claiming that Bill 74 is anti-union. Certainly, that was not the reason for me putting this bill forward. Is it fair to say that they’re not fully understanding the issue at hand, or can you comment on this sentiment that some are saying that this is an anti-union bill?

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Mr. Mark Lewis: I’m not going to speak for any other union. I speak for the carpenters’ union, and all of the other unions are obviously more than capable of speaking for themselves and expressing their own views.

I’m not going to say that this bill is not anti-union. Quite frankly, for the carpenters, that’s not our concern with the bill. Why we are here to support this bill is be-

cause we want a promise that was made in those 1990-2000 discussions to EllisDon to be put into effect, and for some finality to be given. EllisDon is a company; they are obviously not a union, but we don't regard EllisDon as the enemy. EllisDon is a company which employs our members, just like it operates construction sites from one end of this province to the other, on which the members of all of these building trades work.

We obviously have to work with EllisDon in a symbiotic relationship. Sometimes we fight, sometimes we argue, but the point from our perspective is that if you make a promise, if you make an agreement, if you come to an arrangement—however much you disliked it, however much you felt you were forced to make it with a gun to your head—you have to live up to it, because that's how labour relations in our industry works.

Mr. Monte McNaughton: It sounds like many marriages.

Interjections.

Mr. Monte McNaughton: Any time, Kevin?

The Chair (Mr. Kevin Daniel Flynn): No, we don't.

Mr. Monte McNaughton: Okay. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Okay. Thank you very much, gentlemen. On that note, thank you for coming today. We appreciated your presentation.

ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE, LOCAL 397

The Chair (Mr. Kevin Daniel Flynn): Eric Comartin is here from the Sheet Metal Workers' Local 397. If you'd come forward, Eric, and make yourself comfortable.

Thank you, Mr. Comartin. I think you were here at the start. You've heard what the rules are: 15 minutes; use that any way you see fit. If you could leave about five minutes at the end for questions, it would be appreciated. The questioning this time around will come from the New Democratic Party. The floor is all yours.

Mr. Eric Comartin: Thank you, Mr. Chair. As you indicated, my name is Eric Comartin. I actually, unfortunately, like the previous presenters, am also counsel to a union, that union being the Ontario Sheet Metal Workers' and Roofers' Conference and its affiliated local unions across Ontario, which are directly and adversely affected by this bill.

I'm here on behalf of David Bradshaw, the business manager of Sheet Metal Workers' International Association, Local 397, in Thunder Bay. Unfortunately, Mr. Bradshaw, who very much wanted to be here, is meeting with his orthopedic surgeon this morning and could not make the trip. I actually had some prepared statements to make, briefly, but after hearing both from EllisDon this morning and from the carpenters' unions, I think I'm going to elect to just answer a couple of issues and then perhaps get into, with my remaining time, whatever comments I had previously prepared.

You heard Mr. Dillon indicate that there might be a dispute in what was said before the Ontario Labour

Relations Board and what was found at the labour relations board. Unlike EllisDon and, to an extent, the carpenters, who aren't even party to that, I'm not going to litigate here. That's completely inappropriate. This is a live issue before the courts, and I want to make it very clear.

Let me say it very clearly that, either today or tomorrow, the Ontario Sheet Metal Workers' and Roofers' Conference will be seeking leave to appeal the Divisional Court decision to address what we believe are some inadequacies and errors made by the Divisional Court. That's no surprise. I hope that's no surprise to anyone here.

On that point, we consider Bill 74 and, to an extent, the public comments made by members of this Legislature to be wholly inappropriate, given that this is a live matter before the courts. This bill should not be here while we're litigating it.

To answer a question I think I'm going to be asked, because Mr. Howell said, "You should ask the unions about that," what this bill does, arguably—and of course we will argue it—is negate our ability to enforce our collective bargaining rights. If they had brought this before the labour board had ruled, we'd be done. If Mr. McNaughton and EllisDon had brought this bill before the Divisional Court had ruled and it had been passed, we'd be done. If you bring this bill and it passes before we seek leave or before the Ontario Court of Appeal rules, arguably, we are done.

Now, I don't know where you grew up, but I grew up in Ontario, and I'm a little bit younger than some of the people here and a little bit older than others.

Mr. Monte McNaughton: Thank you.

Mr. Eric Comartin: You're welcome.

But I don't think any of you think, at least I hope, that enforcing collective bargaining rights, the freedom of association, is something you should take for granted. I don't care if it's amended or not; passing this bill—even if it only affects sheet metal and the IBEW's right to seek leave to appeal—negates that very essence of freedom of association. If that's what you got elected to do, then I want you to bring that back to your constituents.

You see, I know a little bit about campaigning, and I look forward to campaigning on this issue if, in fact—and I say that not just as the lawyer to the sheet metal workers' and roofers' conference but as a citizen of Ontario. I look forward to campaigning on that issue across Ontario, and so do our members.

We were fortunate last weekend to have a convention. It's our yearly convention of our local unions, and we met in Ottawa. I had the benefit of speaking to that convention. I asked the members—I laid it out for them what we were facing on this bill. Our leadership had previously laid it out to them. I asked them, "Look, given everything we face and the problems we face and the competition that EllisDon is so worried about, and really just the attacks on the labour movement, is this really a fight you guys want to take on?" Every single one of them said yes. I bring that to your attention because it's

important for you to hear, and I bring that from Sheet Metal Workers' International Association, Local 397, and all of the members who were at that convention.

On a different point, I want to talk to you a little bit about what Mr. Lewis indicated about keeping promises. There was a promise; we're going to call that the first promise, and that was 1958 when they signed the working agreement, EllisDon with the building trades. But it wasn't a one-off: 1959, 1960, all the way up to, we say, 2004, they honoured that promise by assigning or subcontracting work that was in the scope of our collective agreement, the sheet metal collective agreement, to contractors that were tied to our agreement. It was a promise that was done on multiple projects over almost five decades. In 2004—again, we say 2004; they say 2001—EllisDon decided to change the way they do business. They're asking you here today to give effect to that change. That was the original promise.

Now, there may be a difference of opinion in what the labour board said in 2012, but again, you heard from Mr. Dillon on that, and I think he was pretty emphatic. At the very least, the promise that the carpenters and EllisDon want you to hear about is disputed. It remains disputed so long as this matter is litigated. I want you to really, really hear me when I say that. That disputed promise is still being litigated.

On that note, I'd like to take any questions you have.

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The Chair (Mr. Kevin Daniel Flynn): Very good. We've got around seven minutes left. We're going to Ms. Fife.

Ms. Catherine Fife: Thank you very much, Chair, and thank you, Mr. Comartin, for your comments. I'm still reeling from—

Interjections.

Mr. Eric Comartin: Sorry, Ms. Fife. I can't hear you because other people are talking.

Ms. Catherine Fife: Oh, sorry. Okay. Thank you very much for your comments. I'm still reeling from listening to the carpenters' union come in here and admit that they are supporting a piece of legislation that eliminates collective bargaining rights. I think that this piece of legislation has proven to be very divisive. I'm not sure if people fully understand that it is precedent-setting, following Bill 115; that going forward, if this passes, amended or otherwise, we will be in a position where any party moving forward can start negotiating collective agreements on the floor of the Legislature, which is wholly unacceptable, and that is not our role.

But I want to address some questions that I specifically asked of EllisDon—and I was dissatisfied, if you will, with the responses. Isn't it true that the sheet metal collective agreement specifically allows the business manager of the local union to address the competitiveness of its contractors if they are faced with undercutting or productivity concerns?

Mr. Eric Comartin: Mr. Howell did answer that question partially when you referred to stabilization and market recovery. However, if Mr. Howell had come to

speak to me or any of our local business managers, or actually had read our collective agreement, he would know about resolution 78 as well.

This is what the local business manager can do on his own. What resolution 78 does in our collective agreement is enshrine in our constitution, "Look, where you're facing, as a contractor"—including a general contractor like EllisDon—"significant competitive pressure either because of market forces or a downturn in the economy, or perhaps even just the cost of oil, you can come to us and say, 'Look, we have this problem. What can you do for us?'" The business manager of that local union is empowered to make the changes to that collective agreement for that job any time he or she wants.

Of course, EllisDon didn't know about that because they haven't talked to us. They brought this legislation forward before even having the opportunity to explore options for what they say are issues with competitiveness, right? He couldn't answer today because he hasn't talked to us about that.

Ms. Catherine Fife: My next question was, EllisDon could simply negotiate with the local sheet metal workers' local if they truly did have competitive concerns.

Mr. Eric Comartin: Sure. For example, in Sarnia, if we were to apply the Sarnia working agreement as it ought to be, EllisDon or other contractors like Aecon or E.S. Fox, for example, that had a large—I'm sorry, Mr. McNaughton; I'm just finishing. If they had that opportunity, of course our business manager would meet with them, if they could show a demonstrated need. I think that's really what the problem is here: They don't want to show a demonstrated need.

Ms. Catherine Fife: Doesn't Bill 74, as worded, affect more than the bargaining rights of affiliated bargaining agents flowing from the EllisDon/Sarnia BTC working agreement only?

Mr. Eric Comartin: Of course it does. All you have to do is look at it. This is silly to even be saying it's disputed.

Subsection 163.6(3) says, "The working agreements to which subsection (2) applies include...." "Include" means more than one, right? It is written unbelievably badly. Again, if anyone says this only affects the Sarnia working agreement, they're just being disingenuous.

Interjection.

Mr. Eric Comartin: Three minutes?

But on that point, it doesn't just affect this small area of working agreements; it affects provincial bargaining. What Mr. Lewis indicated in his submissions about contractors not being aware that they would be tied, through these working agreements, to provincial bargaining—he's 100% correct. But provincial bargaining came in in 1980 under a Progressive Conservative government—Miss Stephenson—to address labour unrest and labour-management instability and disagreements. That's exactly what you're inviting here with this type of legislation. The whole idea of provincial bargaining was to take those building agreements, like the Sarnia working

agreement, and make them province-wide. Now you're undoing that work.

Again, I'm younger than some—older than some—but I invite you to take a look at what construction was like in the 1970s. Anyone who was around and anyone who's aware of that: You don't want to go back there. And that's exactly what you're asking to do here.

Ms. Catherine Fife: I'd like to invite the labour critic to make comments.

Mr. Taras Natyshak: Just one.

The Chair (Mr. Kevin Daniel Flynn): It will have to be a short one.

Mr. Taras Natyshak: Thank you, Eric, for appearing today. My question is simply, who's next? This sets a dangerous precedent through this House. What other collective agreements that currently fall under the same scope or the same nature—which group of trade unionists, which group of employers is next to come to this House to seek—

Mr. Eric Comartin: I'll tell you what. I'll do you a favour, Mr. Natyshak. I'll give you one. If EllisDon really is having such a hard time with competitiveness, why don't you get rid of the carpenters' master agreement? Get rid of it. Get rid of it across heavy civil, ICI, everywhere, and then maybe they can actually take some sheet metal workers on.

Any other questions?

Mr. Steven Del Duca: That clearly wasn't scripted.

Mr. Eric Comartin: Actually, Mr. Del Duca, I am very good friends with Taras Natyshak. I guarantee, it wasn't. I'm happy to—

The Chair (Mr. Kevin Daniel Flynn): Let's go through the Chair.

Mr. Comartin, thank you very much for being here today. We appreciate it.

Interjections.

The Chair (Mr. Kevin Daniel Flynn): Let's keep the remarks down. We're almost ready to go back into the House.

INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS CONSTRUCTION
COUNCIL OF ONTARIO

The Chair (Mr. Kevin Daniel Flynn): The next presenter today is John Grimshaw from the International Brotherhood of Electrical Workers Construction Council of Ontario. He's the executive secretary-treasurer. Mr. Grimshaw, make yourself comfortable. Like everybody else, you get 15 minutes. Use that any way you see fit. Previous delegations have been leaving about five minutes for questions. Questioning this time will come from the Liberal Party. The floor is yours.

Mr. John Grimshaw: Thank you. As Mr. Flynn stated, my name is John Grimshaw and I'm here to speak on Bill 74 on behalf of the International Brotherhood of Electrical Workers Construction Council of Ontario. We're otherwise known as the IBEWCCO. We represent over 15,000 people across the province from 11 locals

and act as a province-wide bargaining unit for workers across the industrial, commercial and institutional, maintenance, residential, communications, line work, and renewable energy for solar and wind in the electrical sectors.

As one of the unions specifically impacted by Bill 74, I'm here to register our strong objection to this legislation. Our members across the province are deeply concerned by the implications of this bill and the blatant violation of workers' rights that it represents.

We are intimately familiar with the details of the ongoing situation with EllisDon. One of the most concerning aspects of this bill is that it is not being used as a measure of last resort after exhausting all options. It's being used as a quick fix by one company with political clout.

The IBEWCCO has made the effort to reach out to EllisDon to reach a mutually beneficial solution that would uphold collective bargaining rights. Mr. Comartin spoke about it just a few minutes ago. We have exactly the same procedures for ensuring that contractors are competitive. We understand that there are market forces out there. We approached EllisDon, and basically it was like we weren't even in the room. They had absolutely no desire to talk to us because they thought the legislative option was the best one.

As a matter of historical precedent, it's not the role of government to intervene when a singular, profitable company finds a particular working agreement inconvenient. The Minister of Labour has mentioned several times over the past few weeks that the government of Ontario believes in fair and balanced labour relations and has trumpeted the overall stability of labour relations in the province. Bill 74 signals the destruction of this tradition based on due process and negotiation.

There has been much discussion about the recent Ontario Divisional Court decision, which has made Bill 74 redundant and ruled that EllisDon could continue to operate under the status quo. The reality is that with limited exceptions, it is currently status quo for EllisDon to use unionized workers on their projects. We have worked with EllisDon for decades, providing highly skilled labour required for projects of all sizes. The company's first-rate reputation is due in no small part to the dependable expertise of our members.

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By continuing to push this legislation forward, the IBEWCCO is being subjected to the unseemly threat of legislation to pressure us into giving up our legal rights to an appeal. Is this the future of labour relations in Ontario: individual companies lobbying for pre-emptive legislation to prevent unions from exercising their legal rights? This is a very frightening prospect to us.

Even more disturbing is the fact that, when read carefully, it is clear that Bill 74 also aims to end hundreds of additional working agreements arbitrarily. Conveniently, there has been no mention or justification of this sweeping measure whatsoever by supporters of this bill. If the aim here is indeed to come to the aid of EllisDon,

as has been repeatedly asserted by Bill 74's supporters in the media and in the House, why isn't there any reference to other working agreements in the province?

As you consider this legislation, I urge you to carefully examine the broad implications of every aspect of the bill. What has been branded as a practical solution for an unfair competitive disadvantage is actually a blatant anti-union directive from one company. On its website, EllisDon states that Bill 74 would "remove any uncertainty and settle this issue permanently, ensuring that EllisDon is never placed in such a position again." Based on this statement, it is clear that EllisDon is not looking to engage in the customary labour negotiation processes to which it is legally bound, either now or in the future.

Please consider carefully the implications of this approach being adopted by the largest construction contractor in Canada. Regardless of the spin on this bill, it sets a dangerous precedent of violating the rights of hundreds of thousands of workers that cannot be overlooked.

Thank you for the opportunity to speak on this bill. I strongly urge you to vote against this legislation, both during the committee process and at third reading, should it return to the Legislature. Bill 74 is fundamentally wrong for the workers of Ontario.

I'll take any questions.

The Chair (Mr. Kevin Daniel Flynn): Thank you, John. The questions this time will come from the Liberal side. Mr. Del Duca.

Mr. Steven Del Duca: Chair, how much time do we have?

The Chair (Mr. Kevin Daniel Flynn): We've got about going on seven minutes.

Mr. Steven Del Duca: Thanks very much, Mr. Grimshaw, for being with us here this morning. I sincerely appreciate your very thoughtful and reasonable presentation to the members of the committee. I sincerely hope that the rest of the deputants that we have here, or witnesses that we have here, for the balance of today's hearings will be as thoughtful and as respectful of elected members as you have been. Unfortunately, one of your predecessors saw fit to not be quite so respectful earlier today.

Having said that, I listened very closely to what you said, and I'm wondering—I don't know if this is the right forum, but I'm going to ask the question regardless. Very respectfully, has the IBEW made a decision with respect to whether or not it will seek leave to appeal?

Mr. John Grimshaw: Not at this point. Tuesday is the deadline to file the paperwork. We have to view things on a day-by-day basis, I guess. My own opinion, if you would like, on this whole thing—

Mr. Steven Del Duca: Sure.

Mr. John Grimshaw: I can deal with this in the courts. I have no problem with it. If I go to the courts and I lose, that's what we do. If we go to court and we win, that's what we do. That doesn't bother me. What bothers me is that I've got legislation being jammed down my

throat to take away my rights to pursue that avenue. That's what bothers me more about this bill than anything.

Obviously, I like to protect the interests of my workers. I have a list in here; I don't know if anybody wants it, but we have a list compiled, and it's only a partial list, of the work that EllisDon has done since 2001 using our people. We are a big part of his success. For him to say that he is not competitive is a stated thing; it's not demonstrated by this list of projects.

Mr. Steven Del Duca: So you do have a good working relationship with EllisDon. You mentioned this in your comments, and I don't know if you want to elaborate on it. You do have a good working relationship with EllisDon that goes back decades. They are not what you would perceive to be, and I guess what any one of us would perceive to be, some sort of anti-organized-labour company? That's not what we're looking at here?

Mr. John Grimshaw: I see this whole push from them, using whoever from their political arena to push this forward, as something that would probably make them more profitable, and I hear that. I've got all kinds of contractors all over Ontario that are bound to us that would tell you in a minute that we absolutely need to work with these people on so many of these different projects or we would never be able to get them done.

But if we're bidding on something else where it might be a little bit easier for us to use a non-union contractor and make a little bit more profit, we'd be happy to do that. That's where this is leading.

I can see these other contractors saying, "What about me? You just let my competitor off the hook on something. What about me?" And so on and so on and so on. Is that where we're headed with labour relations in the province of Ontario?

Mr. Steven Del Duca: Actually, if I can just ask for a clarification from my standpoint, because all of the witnesses who have come before us today understand this far better than I do. Is the concern that other companies will come forward, sort of *carte blanche*, and ask for this kind of remedy? I'm trying to think of—maybe I'm wrong about this, but are there many others that we know of that would be caught in the exact unique circumstances that we're dealing with in this bill?

It's easy for someone to come forward and say, "This is the thin edge of the wedge; this is a slippery slope." But I'm just curious; I don't know. Are there many others? Are there any others? Is it just that we don't know if there are any others out that might be under these very unique circumstances that the bill deals with?

Mr. John Grimshaw: I'm sure the city of Hamilton would like out of their unique situation as well—

Mr. Steven Del Duca: Sure, but that's a separate issue. By the way, the city of Hamilton and others have tried to seek remedy through the Legislature and they've been unsuccessful—on a completely separate issue. But I'm talking about—

Mr. John Grimshaw: And the courts dealt with it.

Mr. Steven Del Duca: But I'm talking about specifically in this case, I'm just wondering—

The Chair (Mr. Kevin Daniel Flynn): Steven, let's have one question and give the gentleman time to answer.

Mr. Steven Del Duca: Absolutely.

The Chair (Mr. Kevin Daniel Flynn): Let's have the question.

Mr. Steven Del Duca: I thought he did answer, that's why I was coming back. The question was, is this just a hypothetical "there could be others," or is there a specific concern? I don't know. I'm asking this genuinely.

Mr. John Grimshaw: And I'll answer it genuinely. I have several concerns; that's one of them. I think I addressed all of the concerns we have. We have the same situation as the sheet metal workers. I approached EllisDon; I spoke with Tom Howell last night. I said, "We're happy to talk to you if you're having a problem." Whether or not—even if this goes through, if we lost this in the courts and they end up being not bound to us outside of board area 8, fair enough. I'd still want to talk to them to make sure they're competitive, because most of the time they do use our contractors. They have good relationships with a lot of our contractors. A lot of our contractors are concerned that this kind of thing is going to hurt their business down the road. It's not just the union that's upset about this.

Mr. Steven Del Duca: Thanks very much.

Ms. Mitzie Hunter: Mr. Grimshaw, I want to join my colleague—in your representation here today, and also the manner in which you represent your workers as it relates to the contractor in EllisDon, I do see that there is good faith there in your past history, and I just want to thank you for your presentation today.

The Chair (Mr. Kevin Daniel Flynn): Any further questions? There being none, John, thank you very much for being here today.

Mr. John Grimshaw: Thanks very much.

The Chair (Mr. Kevin Daniel Flynn): We're recessed until 2 o'clock this afternoon. Thanks, everybody else.

The committee recessed from 1028 to 1403.

ONTARIO PIPE TRADES COUNCIL

The Chair (Mr. Kevin Daniel Flynn): Okay, ladies and gentlemen, if the members of the audience could take their seats. We're still going to be joined by some other members, but I think we can get started.

First up is James Hogarth, the business manager for the Ontario Pipe Trades Council.

Also, two of the delegations have asked if they can change spots. The delegation that was due to appear at 3 would like to go at 2:30, and the person who was going to go at 2:30 is quite happy with that.

So, James, it's all yours.

Mr. James Hogarth: Okay. Thank you. Hopefully, I'll keep us within the time frame, and by my account,

you've used up the question period, so I'll try and go through this quickly and we'll get it back on schedule.

The Chair (Mr. Kevin Daniel Flynn): You're fine; you get the full 15.

Mr. James Hogarth: Okay. Thank you for the opportunity to speak to Bill 74. I'm James Hogarth, business manager of the Ontario Pipe Trades Council. I'm also the president of the provincial building trades council, but that was represented by Brother Dillon earlier today, so I'll just stick to my mandate. I represent all 22,000 workers from all 10 locals across Ontario.

Our members are highly skilled tradespeople, who work as plumbers, pipefitters, steamfitters, sprinkler fitters, HVAC technicians, welders, apprentices and so on. We work very closely with hundreds of contractors on projects of all sizes, in all regions of the province, and we're also very heavily involved in the apprenticeship training.

I'm here today on behalf of the members to express our strong opposition to Bill 74. While I can only speak for my members, I know from discussions with our signatory contractors that many of them also oppose Bill 74, as it explicitly favours one large player.

What is being described as a practical solution to a specific problem is in fact the opposite. This bill represents a departure from the standard negotiating practices and sets a dangerous precedent for the violation of workers' collective bargaining rights here in Ontario. It is particularly inappropriate for this legislation to be considered before the ongoing legal considerations have been concluded, a blatant violation of the unions' right to due process.

Bill 74 seeks to impose legislation on the part of a single, highly profitable company, EllisDon. Let me be clear: EllisDon is not a struggling company. Based on publicly available information, the company generates more than \$3 billion annually in revenue. If EllisDon is permitted to seek legislative solutions for a collective bargaining matter, as one of the top market performers in construction, what precedent is that setting for companies with a smaller market share?

Construction is by nature a cyclical business. Bill 74 easily prompts companies to seek a similar legislative solution instead of meeting their signatory obligations. This is not fearmongering; it is a likelihood that companies would seize upon this opportunity if legitimized by this bill. While it may appear to be a bill specific to one company, it is clear that a precedent would be set for other construction contractors. Unique circumstances could be invoked for many other cases, to the disadvantage of Ontario workers.

Furthermore, I would like to clarify the fact that this bill applies to all pre-1979 working agreements with the exception of 11 companies specifically named in the Ontario Labour Relations Act. That has been repeated numerous times today. We hear to the contrary that it's just EllisDon, but we've heard it from everyone, and we're very clear on the fact that this allows a lot of com-

panies off the hook due to the pre-1979 working agreements.

The EllisDon working agreement with the Building and Construction Trades Council of Sarnia and Lambton County named specifically in Bill 74 is just one of hundreds of working agreements that would be terminated when the legislation comes into force. That's hundreds of working agreements across Ontario arbitrarily ended for no lawful reason whatsoever.

This carefully crafted bill that, for the record, did not include consultation with the unions involved, or with the contractor community for that matter, fundamentally seeks to strip away the rights of hundreds of thousands of Ontario workers. By extension, Bill 74 would have a ripple effect on the contractors affiliated with these hundreds of working agreements. It is for this reason that our affiliated contractors are standing with us in opposition to Bill 74.

It is true that labour relations can be intense at times. It is also true that, in the day-to-day operations of the construction industry, contractors such as EllisDon and local unions collaborate on projects of all kinds. It is in the best interests of the union that contractors are able to bid competitively, because if they are not successful, our members don't have work. It's as simple as that.

It is also in the best interests of the contractors that we supply a pool of dependable, highly skilled labour. The successful completion of a project is often directly related to the quality of our tradespeople.

EllisDon has a strong track record of successful bids. They are Canada's largest healthcare builder, and they lay claim to many high-profile projects such as McDonald's restaurants, the Ritz Carlton, the Art Gallery of Ontario and so on. Clearly, this is not a case of a competitive disadvantage being an unreasonable burden on a single company. This bill is designed to eliminate one particular working agreement deemed inconvenient, and delete several hundred others as a fringe benefit.

It is interesting to note that there are certain unions that have quietly offered their support for Bill 74. Despite the risk of precedent, they have decided to back Bill 74 because they do not stand to lose their bargaining rights, due to the direct nature of their relationship with EllisDon. They stand to benefit, because they are not under immediate threat by this bill, and they have decided that the risk to the union movement is worth whatever short-term gains they may enjoy. Please do not mistake the stance of these unions as representative of the needs of the industry.

1410

Bill 74 is not only unusual in its government interference with a working agreement but also specifically targets skilled tradespeople, a vital part of our labour force in need of replenishment. The impact of this legislation will not be lost on our apprentices and new recruits.

I urge you to seriously consider the implications of Bill 74 and vote against this legislation at third reading. The claimed benefits for one company are not worth the

damage done to the livelihoods of workers across Ontario and the dangerous precedent for tradespeople of Canada.

Thank you for affording me the time to speak before you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Jim. You've left about seven minutes, and the questioning this time goes to the Conservatives.

Mr. Monte McNaughton: Thank you very much for your presentation. Really, we don't have a lot of questions. I was just going to ask you, how many of your members in the pipe trades work for EllisDon now? How many would they hire, say, on an annual basis?

Mr. James Hogarth: Well, it's hard to say on an annual basis. It's determined by what stage the projects are at, what type of work it is, where the work is and the size of the project.

Mr. Monte McNaughton: But could you give a figure of how many of your workers would work for EllisDon?

Mr. James Hogarth: On an ongoing basis on, say, a large hospital project, it could be upwards of 250 to 300 on one project, if it's a large hospital.

Mr. Monte McNaughton: What's your history with EllisDon as far as relationships over the years? Have you worked well with them for a number of years?

Mr. James Hogarth: I haven't had too many dealings with EllisDon, because we haven't really had problems with them. Our contractors do work for them, and in turn our members work for them. But over the last 10 years a lot of their projects have been done by union labour, so why do they need the relief?

Mr. Monte McNaughton: Okay. I don't have any other questions. Thank you very much for coming today.

Mr. James Hogarth: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Jim. Thank you for attending.

Mr. Monte McNaughton: I'm sorry. Doug does.

The Chair (Mr. Kevin Daniel Flynn): Mr. Holyday.

Mr. Douglas C. Holyday: Yes, I just have one. I guess, in listening to all the deputants, there seems to be one union group in favour of the bill, and other groups maybe not in favour of it. I'm wondering if you people have sat down and tried to work out some compromise or some solution to this problem. I know EllisDon seems to be a highly regarded company by workers and certainly by others.

Mr. James Hogarth: Well, seeing that you're opening the door here, I know the IBEW and the sheet metal have gone through long, protracted dealings at the OLRB and Divisional Court and all of that.

The Ontario Pipe Trades filed a grievance, and prior to filing the grievance, along the same lines, I phoned EllisDon. I left a message for EllisDon: "I'm going to file a grievance. Can we speak? Can we sit down and talk and maybe work something out?" I got a response back by their legal counsel: "Do what you got to do." So this is the union reaching out and saying, "Let's sit down and talk," and the other side saying, "Do what you got to do." They'll take it through another route.

Mr. Douglas C. Holyday: So you don't think there's any room, then, and that this is a matter that must go to court? I mean, lots of times the court itself would tell you to go back and talk it out.

Mr. James Hogarth: I speak with all the trades. I don't speak for them, but I speak with them. We're always, always willing to sit down and talk with signatory contractors and non-signatory contractors in an effort to make them successful and, in turn, ourselves.

Mr. Douglas C. Holyday: Well, I guess this is a message to you and maybe to others here as well that before this matter actually gets to a vote at the Legislature, do you think there would be some opportunity for the people to sit down and see if they can come up with something?

Mr. James Hogarth: I don't know. What's the timeline?

Mr. Douglas C. Holyday: I don't know, but it's not going this week, so it's not as if it's going to be tomorrow.

Mr. James Hogarth: At the drop of a hat, so to speak, I couldn't answer that. But we're always willing to sit down and talk with contractors, developers, builders, cities, municipalities—anyone.

Mr. Douglas C. Holyday: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Jim. Thanks for coming.

Mr. James Hogarth: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Next up is Steve Martin from the IBEW, Local 353. Steve? Is Steve here today?

Interjection: No.

UNITED ASSOCIATION OF PLUMBERS AND STEAMFITTERS, LOCAL 46

The Chair (Mr. Kevin Daniel Flynn): Okay, well, let's go on. This will probably be good news for Bill. You want to get on a flight, so you're up here. Come on forward.

We've got Bill Signal, business rep from UA Plumbers and Steamfitters—one I'm very familiar with, my dad's old Local 46.

Mr. Bill Signal: Good afternoon.

The Chair (Mr. Kevin Daniel Flynn): Just like everybody else, Bill: 15 minutes. Ten minutes for a presentation and five minutes for questions—

Mr. Bill Signal: That would be fine with me. I'm flying off to Australia this afternoon.

The Chair (Mr. Kevin Daniel Flynn): Then you're on your way.

Mr. Bill Signal: Thank you for taking the time to listen to me in regard to objecting to the implementation of Bill 74. To have this bill presented to Queen's Park and EllisDon asking for relief from their obligations pertaining to their collective agreements with the various subtrade unions is outright wrong.

Understanding the Carpenters and Joiners union along with the Labourers' International having province-wide

agreements puts them in the position that they can agree with EllisDon, as it does not affect them in regard to their collective agreements. What it does do, though, is allow these two unions to organize the subtrades into one or the other's union. The two trades having collective agreements then would be able to organize by telling the subtrade unions if they joined the carpenters' or the labourers' union. They would be able to work under their umbrella.

Let's be candid about this: Both unions have been raiding other trades for years. It is well known in the United States that the carpenters have gone after the electrical union along with other subtrades in outright organizing of unionized workers. The carpenters' union disaffiliated from Change to Win after other affiliates in the Change to Win Coalition demanded the carpenters cease raiding other union memberships.

I'd like to make a correction in my notes, after this.

In fact, the carpenters do not belong to many building trades councils in Canada. The labourers' union in Ontario has been doing the same thing outside of the ICI sector as well, but not in the ICI. I'll give them credit for that.

As far as EllisDon seeking relief, I ask: relief from what? Excellent craft unions that have earned them the reputation of being first class? Can it be relief from the billions of dollars they have earned through the P3s that the province of Ontario has put forward?

Is this the thin edge of the wedge of allowing all general contractors out of their collective agreements with the subtrades throughout the province? Will this allow the carpenters with no affiliation to many building trades to do traditional work which is normally done by these other crafts?

EllisDon, along with many other general contractors, had their eyes wide open and understood what they were signing when they agreed to hire unionized subtrades along with the carpenters and labourers.

Prior to province-wide bargaining being introduced, the building trades councils in the various areas of this province approached the general contractors, negotiating local agreements. This is how the Sarnia agreement was created. There are many more agreements throughout this province that this legislation will wipe out, as the mover of the bill fully knows. The introduction of this legislation and especially the dates involved demonstrate the continued wiping out of legally-agreed-to agreements with general contractors.

I came from the era of local agreements being signed with general contractors. I started my trade in the era prior to province-wide bargaining—as you can see by my grey hair—where each community of trades negotiated their own collective agreements at a fair market value in their respective areas.

A member of the Legislature, Mr. Monte McNaughton, states that it will save thousands of Ontario jobs. I would say that there will be no savings of jobs or creation of any more. The same jobs will be there but the workers will be working for less, not having a union to

speak for them or protect their craft or their health and safety on the job. The question of health benefits and pensions for workers would be in question as well.

1420

Is this member of the Ontario Legislature attempting to create a war between the trades? Is this the same province that holds up agreements and treaties hundreds of years old that were made with natives, stating that they signed off and they no longer have a claim for mining areas, hydro rights of way, possibly an area of the province where the natives agreed to give up their timber rights?

A deal is a deal, as they say. As I explained to the 8,000 members of the United Association of Plumbers and Steamfitters in Toronto, we have a collective agreement. It is signed by both parties and we live by it. If we violate the agreement, the mechanical contractors can take us to the labour board to uphold what we have agreed to. Likewise, we can do the same.

I find it surprising that the provincial Liberal government would put their support toward this private member's bill, creating disharmony between the trades. Consider what you are doing to the sub-trades and the families of Ontario's unionized trades. Everyone is watching this very closely.

I thank you for the time. I look around this room and I think of the people who came out of construction. If they didn't come out of the construction industry, their fathers did. It has been a very prosperous, ongoing, good working opportunity for unionized general contractors. I'm appealing to you to consider what you're doing with Bill 74 because of the disharmony that it'll put forward. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Bill. You've left about seven or eight minutes for questions—eight minutes. Ms. Fife, or Michael?

Mr. Michael Prue: Go ahead.

Ms. Catherine Fife: I'll go first; thank you. Thanks very much, Bill, for your presentation. You've expressed some frustration about this process, for good reason. Do you think it's a good precedent to pass legislation that allows only one company to be relieved of its collective bargaining obligations? What implications do you see if this does pass and if it does come to the floor for third reading?

Mr. Bill Signal: I believe that it's unfair for this company to be doing this, to start off with. The implications of all the other general contractors throughout this province, that each and every local union has negotiated individual agreements, building trade agreements—they'll be up in the air. We could have a serious situation in the future that we'll be lining up at the labour relations board trying to fight our way through situations where we've had long-standing agreements that will be wiped out. We'll be standing on the street saying, "What happened?"

Ms. Catherine Fife: Thank you, Bill.

Mr. Michael Prue: We've heard evidence this morning from other unions stating that their business agents

are allowed to negotiate with EllisDon if they believed or if EllisDon comes forward and tells them that they're at a competitive disadvantage. The business agents can take this into account and make some contractual changes. Does this happen at all with the plumbers and steamfitters?

Mr. Bill Signal: Yes, it does. We have sometimes been approached. We have two things that happen sometimes. We'll have a pre-job, where all the trades will sit down and negotiate possibly an agreement to assist the general contractors to win the bids.

Mr. Michael Prue: Now, when EllisDon was here this morning—I can't remember their exact words, but it seemed to me that they thought this was very rare or never happened at all.

Mr. Bill Signal: It happens many, many times—many, many times in many, many different communities in this province.

Mr. Michael Prue: And has EllisDon come to your union at all in the last couple of years for this? Have they come forward? Because now they're seeking a hammer of a legislative change where you say you just sit down and talk.

Mr. Bill Signal: I'm going to reflect back to the Toronto international airport, which I'm going to be going to. When they were rebuilding that total airport, it wasn't EllisDon that built it. But the general contractor knew there were 2,000 or 3,000 workers—construction workers—on that project, and they said, "We understand that your start time is 7 o'clock, and anything before that is double time. So how about assisting us with the time starts?"

I, as the rep for the plumbers' and pipefitters' union, said, "Okay. What do you want?" And they said, "Well, if we can start at 6."

I said, "Listen, on behalf of the members of Local 46, I agree with a 6 o'clock start, and there won't be any overtime. It will be at straight time. They will go to work, and they'll finish one hour early."

There was a handshake made. The sheet metal was there; they made their deal. I think they started at a quarter after 6. There were carpenters; there were other trades.

It was a massive project, and everyone started at a separate time. They had buses to bring tradespeople in, buses to bring tradespeople out, because you can imagine 3,000 people trying to drive their cars out at the same time. So it was an orderly agreement that took place.

The health and safety—it was the same thing. We sat down and we resolved some of the issues in the health and safety. In the old Terminal 3, we had asbestos problems. We were able to agree to work together.

But this is the most disharmony, you know, that I can see. But working with the general contractors, we've always done that, and that's—

Mr. Michael Prue: I think my colleagues on the other side have some questions, if there's time.

The Chair (Mr. Kevin Daniel Flynn): Yes, there's about three minutes left.

Mr. Paul Miller: Good afternoon, Bill.

Mr. Bill Signal: Hello.

Mr. Paul Miller: I share your background. I have about two or three trades.

I can see that this company is trying to create a monopoly, which is very scary. I also believe that the—I'm quite stunned at the carpenters' position, being fellow tradespeople, that they've taken a position of basically taking care of themselves, which is pretty scary. They've obviously had a history of that in the States too, I see.

Mr. Bill Signal: Yes.

Mr. Paul Miller: There are ongoing problems. I can give you an example. I've got a problem going on in Hamilton right now where there's some question of the IBEW has got some problems that—this contractor has decided that he's going to eliminate unionized trades from the job and allow labourers to do some electrical installation, which is unacceptable, because there are construction codes in this country that we have to follow as tradespeople, and you want quality work.

So would it be fair to say that if this ever went through—and heaven forbid if it does—it would cause some safety concerns on job sites for the company being in control of who they determine can do what, and the grey areas—there are always grey areas in contracts where you could put in this fitting and maybe get away with that, and you could solder this and get away with it. Do you think it's going to cause a problem?

Mr. Bill Signal: Yes. In fact, in the past—I can reflect back to Sudbury. There was a hospital built there, and they had cross-connections. People died because of the gases; they were fed the wrong gases when they were having an operation. So the legislation had to come in and make sure that there was certification for medical gas.

Mr. Paul Miller: Well, I'm glad you brought that up, because I remember a project in Hamilton called Century 21—a huge building complex they built up, and for 10 years after, they had had nothing but problems—pipes breaking—non-union trades in there. I'm not saying non-union trades aren't good, but, certainly, there was no follow-up, and they had nothing but problems with that building. People had to move out of the building. They couldn't even live there anymore. They had to renovate, fix—it went on for years.

So my concern is also safety. I think the certified tradespeople in this country are good, and they know their stuff. I think that when a company takes control of a job site—and I'm also concerned about the bidding process. If you've got a monopoly, you can undercut other bidders who want to come in there and do good work, that have unionized trades workers that want to work. These companies—EllisDon has got a big pocket, and they can certainly squeeze out. Would that be a fair statement too?

Mr. Bill Signal: I'd suggest that it would be fair, yes.

Mr. Paul Miller: Thank you.

The Chair (Mr. Kevin Daniel Flynn): There's time for one very short question and one very short answer. We've got about a minute left.

Taras?

Mr. Taras Natyshak: I'll ask you the same question that I asked Eric Comartin this morning: Who's next? What's the next trade to fall under the same fate as—

Mr. Bill Signal: Who's the next big contractor?

1430

Mr. Taras Natyshak: Yes.

Mr. Bill Signal: Maybe Aecon or Comstock—all of the major general contractors in this province which we all have collective agreements with.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Bill.

Mr. Bill Signal: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you for coming today. Enjoy your flight.

Mr. Bill Signal: Thank you very much.

The Chair (Mr. Kevin Daniel Flynn): Is Steve Martin here yet, from the IBEW?

Interjection.

The Chair (Mr. Kevin Daniel Flynn): The guy with an arrow through his head.

SHEET METAL WORKERS' AND ROOFERS' INTERNATIONAL ASSOCIATION, LOCAL 30

The Chair (Mr. Kevin Daniel Flynn): No Steve Martin? Okay, let's go on to Sheet Metal Workers' and Roofers' International Association, Local 30. Chris Paswisty, if you'd come forward and make yourself comfortable. Like everybody else, you get 15 minutes; use that any way you see fit. This time, the questions will be coming from the Liberal Party.

Mr. Chris Paswisty: Okay.

The Chair (Mr. Kevin Daniel Flynn): The floor is yours.

Mr. Chris Paswisty: Thank you very much. I want to thank everyone on the committee for allowing me the time to come and speak here on this important matter. My name is Chris Paswisty. I'm the business manager and financial secretary-treasurer of local union number 30.

Local 30 represents thousands of construction workers in the greater Toronto area, and our members will be directly impacted by this bill. We're not in favour of this bill; in fact, we could not be more strongly opposed. We are concerned with both the way this bill has come forward and its content.

The perception of our members is that this bill has been packaged with other bills and put on a fast track by two parties that are recipients of significant donations from EllisDon. There is no secret that EllisDon is the reason this bill exists and that EllisDon would be the primary beneficiary, but there is more to the story than this, and it was a Progressive Conservative MPP that brought it to light.

As we all know by now, the Progressive Conservative MPP indicated that the suggestion was made within the Tory caucus that the PC Party could continue to benefit financially from EllisDon if this bill was passed. The Progressive Conservative MPP was concerned that support for the bill might be a violation of the Legislative Assembly Act and that it might hurt his party's future electoral prospects.

Our concern here is not only a possible violation of the Legislative Assembly Act, but the greater threat that this kind of behaviour poses for our political system as a whole. It looks and smells like another example of how proper functioning of our political system can be subverted by undue corporate influence. We need to take a hard look at how we, as Ontarians, want our political system to function, and we can start on the right path by having all members of this Legislature oppose this bill.

But that's only part of the reason why this bill must be opposed. Much has been said, and rightfully so, about how inappropriate it is for one company to demand legislation to address what it perceives to be unfair treatment, but we in the labour movement have a hard time understanding how being expected to honour an agreement that was entered into freely and voluntarily is unfair.

Why is it unfair for workers to expect a company to live up to its written commitments? Why is it unfair for workers to expect that our bargaining rights will be respected? We're talking about basic, fundamental rights that have been a feature of labour law in this province for generations. Unfortunately, we've seen these rights put to the sword by our governments in recent years, and this bill is just another example of this trend.

But here again, when we talk about what one company wants, we are only talking about part of the story. That's because, despite the focus of the discussions being on EllisDon, this bill actually goes beyond EllisDon. In one of its own press releases about the bill, EllisDon says that this bill is about closing a "loophole in construction law," a loophole that affects only EllisDon.

But it would appear—and I hope that I'm wrong, that there is no sleight of hand here, because when you actually read the bill, you will find that this bill is not closing a loophole. It is slamming a door on all the bargaining rights that were lawfully created by any working agreement in the province of Ontario that was signed prior to May 1, 1979, unless that working agreement was subject to the "deemed abandonment" regulation that took effect during the Mike Harris years, or unless those bargaining rights were retained in other limited circumstances. What this means is that bargaining rights created by hundreds of working agreements in this province—bargaining rights that were lawfully acquired, by the way—will be extinguished by a private member's bill that was intended—or so we thought—to redress what has been mistakenly characterized by some as an unlevel playing field for EllisDon.

In its public statements about the bill, EllisDon had said that this bill is about preserving the status quo. Let's

be clear: There is nothing status quo about eradicating hundreds of working agreements at a stroke of a pen.

We feel that this bill is a mistake, a mistake that we believe no government, no party and no group of politicians has a mandate to bring forward, and we're deeply troubled by the content of this bill and the message it sends to working people.

I'd like to thank you for your time and I hope that you guys oppose this bill going forward. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Chris. You've left about nine minutes for questions. Mr. Del Duca.

Mr. Steven Del Duca: I sincerely appreciate you being here today and providing us with your opening statements. I didn't hear clearly the opening of what you said. I just wanted to clarify for my own sake. So Local 30 of the Sheet Metal Workers and Roofers International Association is based in the GTA?

Mr. Chris Paswisty: Correct.

Mr. Steven Del Duca: Okay. So the geographic zone or area for Local 30 is the greater Toronto area. Does it go beyond? I don't know.

Mr. Chris Paswisty: Yes, it does. We actually have seven board areas in Local 30's area, so board area 8, which is the general greater Toronto area, is one of them.

Mr. Steven Del Duca: Now, maybe I don't understand this correctly, so if I don't, I apologize again. But in the GTA, when EllisDon does do work, if I understand it correctly, they do use unionized labour. Is that not correct?

Mr. Chris Paswisty: Correct.

Mr. Steven Del Duca: Sort of wall to wall, as the saying goes in the industry, right?

Mr. Chris Paswisty: Yes. I can only speak for sheet metal and roofing.

Mr. Steven Del Duca: One of the other things that you did say—and you're not the first one to have mentioned this to us today—is this notion that the way Bill 74 is currently crafted, inadvertently perhaps, for whatever reason, the language is too broad, and that it's not simply about maintaining status quo. It catches a lot more than just dealing with one particular instance, one particular company. I heard you say that; we've heard that from many of the witnesses who've been here so far today.

I believe I asked this question earlier today of Mr. Dillon, who was here—I forget if it was Mr. Dillon or someone else that I asked the question of—regarding the notion that, of course, when we get to the point at which bills are amended at committee, for those who do have concerns, maybe valid concerns, about language in the bill being too broad and capturing far more than was originally intended, those kinds of things can be dealt with at committee, we can apply a certain degree of—let's call it surgery—at committee by way of an amendment to narrow the language to make sure that an unintended consequence from any legislation, not just Bill 74, doesn't actually unfold. I'm not sure if you were in the room earlier today or not to hear that conversation.

I'm just wondering about your perspective on if this committee sought to narrow and make sure that this was something that dealt exclusively with this particular situation regarding this particular company.

Mr. Chris Paswisty: I think I understand your question. I don't know the process so I don't know what can be done at committee. But I guess the question is that if there's a path that workers have to address their concerns, we're asking that the committee not stop that path.

As you heard earlier today, we've talked to our members and the grave results of this bill passing will go right across the province. So I would ask this committee that we have a process in place, a process that has kept stability in this province for generations, and that you allow it to go through the process.

There was also an offer earlier about sitting down and talking. I know that all trades are willing to sit down and talk, but this has been pushed, run through, and I say that that's where we stand. We want to be able to at least talk about that, but at least have the committee not address this. Let the systems that we put in place play themselves out.

Mr. Steven Del Duca: I do understand that and I don't want to be difficult about this. I'm just trying to get a handle from my own perspective. You mentioned a second ago that the impact will be felt province wide. But if I understand it—and again, I might not, because I'm not out there like you are, operating in the field. But my understanding is that outside of the GTA for the most part, where this bill would take us, similar to where the Divisional Court ruling has taken us, it would be preserving the status quo, or at least the status quo that has existed over the last number of years. So there would be no actual tangible difference to your members outside board area 8—

Mr. Chris Paswisty: Well, I think—sorry, if I may?

1440

Mr. Steven Del Duca: It's okay, please jump in.

Mr. Chris Paswisty: What would be different is that the members outside of that area would not have their avenues to address their concerns. That's why I ask the committee to allow them—don't take their voice away. That's what I'm asking.

Mr. Steven Del Duca: But your members outside the GTA have not—again, from my perspective—had that opportunity over the last decade or so. We heard from two different people earlier today about exactly how long that time period is. Is it 2001? Is it 2004? But over the last, let's call it close to a decade or beyond a decade, there hasn't been an impact for your members outside the GTA. And your members inside the GTA—

Mr. Chris Paswisty: No, there has been impact, on projects that we have done work with EllisDon, that we have assisted our contractors, whether they're aware of our assistance to their subs—the ONroutes, everything outside of the greater Toronto area. They've done work up in Barrie. We're working with them right now up in Penetang at the—

Mr. Steven Del Duca: But there's nothing in this bill that would prevent them from doing that work going forward. It just wouldn't require that they have to do the work going forward—

Mr. Chris Paswisty: We have a process in place where there are rights out there. We're asking to let us pursue those rights and just live up to the agreement that we have. Maybe I'm not answering your question directly but—

Mr. Steven Del Duca: No, you are. This is a learning process for all of us, and I do appreciate your passion and your sincerity.

Mr. Chris Paswisty: Thank you.

Mr. Steven Del Duca: I'm not sure if any of my colleagues have questions, but I'm good, Mr. Chair.

The Chair (Mr. Kevin Daniel Flynn): Any more questions?

Mr. Steven Del Duca: Thank you very much.

Mr. Chris Paswisty: Thank you very much.

The Chair (Mr. Kevin Daniel Flynn): Thanks for coming.

Okay, last chance for Steve Martin from the IBEW. No Steve?

ONTARIO SHEET METAL WORKERS' AND ROOFERS' CONFERENCE

The Chair (Mr. Kevin Daniel Flynn): Okay. Tim, if you'd like to come forward at this point—Tim Fenton from the Sheet Metal Workers' and Roofers' Conference. Tim is the business manager. Make yourself comfortable. You can introduce yourself and your colleague again for Hansard. Use your time as you see fit.

Mr. Tim Fenton: Good afternoon. Thank you for having us here. My name is Tim Fenton. I'm the business manager of the Ontario Sheet Metal Workers' and Roofers' Conference. To my left is Mr. Eric Comartin, our in-house counsel. I'm here today to talk about Bill 74 and its impact on our industry.

Labour relations is a very complicated thing and even more complicated in construction. When the government made the decision in 1980 to give us province-wide bargaining, it started to smooth things out. Prior to that, construction was like the Wild West. After that, we started to have some patterns and less frequent strikes. Our industry hasn't had a strike since 1990—quite a long time. Roofers are a little different, but that's a different game.

When we had province-wide bargaining come in, it brought in some working agreements, in particular the ones that affect board area 8. Later on, we had a change in government, and they decided to make some exemptions to that, and an abandonment clause came in.

During that time, we had worked closely with EllisDon, starting a working agreement and other working agreements they had signed, and we relied on them all the way through. Some time in 2004, EllisDon decided to wander away from those agreements—not particularly large jobs: the four-pad arena up in Hamilton, the two-

pad arena down in Alliston and various other jobs—and decided not to use us as one of the subcontractors. So we started grievances, and the process probably started in 2005, where we took on the case to determine bargaining rights. That has been going on for eight years, and we've been doing the process that's available to us. It's not an anomaly; it's just another incident in labour relations that needs address, and we go to the labour board for that.

Following that, we were able to move to another court and get some other clarifications. Right now, we're stuck at a position where we need further litigation, and this legislation may stand in the way of that. We don't believe that's right. We believe that's an infringement on our rights, and the only thing that's available to us is the courts. We don't have the deep pockets that can bring legislation to change things.

For a particular contractor, a set of circumstances that they agreed to in 1958 and that they've lived up to now doesn't suit them. They haven't shown us where these irregularities are, where they're disadvantaged. They tell us that, but I think if you were to look at all contractors, you'd find that for every contract they bid, they're not successful. They don't win everything they bid on. So giving them the option of not using union trades, subtrades—because EllisDon doesn't employ us directly. They subcontract work to our subcontractors.

So, in the end, are we losing work in the province? It's the same work. It's just that others will be doing it, and likely for less pay. So we're not helping industry here. We're helping somebody with deep pockets fill them up even more.

We believe that there is potentially a challenge under the Charter of Rights, that this legislation interferes with our right to association. As you know from now, we're not one to shy away from that kind of litigation. If this was to become proclaimed, you can bet that we'll have a challenge, and I'd ask this committee here if they've had any legal advice on this at all as to whether or not it will interfere with the Charter of Rights. I think that's something they should ask if they haven't done it yet.

Those are about all my comments here. I ask this committee to turn it down. Turn down this Bill 74. It's not necessary. What's available under the courts will work its way through, and we'll have to live with what happens in that. That's typical of any of the relations we do.

The Chair (Mr. Kevin Daniel Flynn): Very good. Thank you, Tim. Thank you, Eric. Questions are from the PC Party. We've got just over nine minutes.

Mr. Monte McNaughton: Well, we certainly won't be nine minutes, but thank you very much for your presentation today.

Is it fair to say that it's more advantageous for you and your members for EllisDon to get contracts and to be awarded contracts to build projects versus, say, companies from Spain or the United States?

Mr. Tim Fenton: If we have a collective agreement with that general contractor, all the time it's to our advantage. Our work comes from subcontracting clauses in the

collective agreement, but I'm not aware of any Spanish companies coming in to do our work.

Mr. Monte McNaughton: Okay. I know they're doing large jobs across the province, but maybe not involved with your trades.

Mr. Tim Fenton: Well, perhaps it's in another sector other than ICI.

Mr. Monte McNaughton: Okay. Great. I have no other questions. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Tim. Thank you very much for coming today.

Mr. Tim Fenton: I'm off the hook? That's it?

The Chair (Mr. Kevin Daniel Flynn): You've got it easy, unless you've got anything to add. It's your time. If you've got more to say, you've got eight minutes to say it.

Mr. Tim Fenton: No. I thank you for your time here today, and we'll move on.

The Chair (Mr. Kevin Daniel Flynn): Okay. Thank you, Tim. Thanks for coming, Eric.

CANADIAN UNION OF PUBLIC EMPLOYEES ONTARIO

The Chair (Mr. Kevin Daniel Flynn): Our next delegation of the day is Fred Hahn, the president of CUPE Ontario.

Fred, make yourself comfortable. You know the drill: 15 minutes; leave some time at the end for questions. Other than that, the time is all yours.

Mr. Fred Hahn: Good afternoon. My name is Fred Hahn. I'm the president of CUPE Ontario.

CUPE is the province's community union. We have 240,000 members, and we're the community union because we literally have members in every region, in every community of the province.

Our members work in hospitals and in long-term-care facilities. They work in child care and throughout the social services sector. They collect garbage, maintain our parks, and make sure our water is drinkable and clean and safe. They teach in universities and they are support staff in elementary and in high schools.

Now, I realize you might be wondering why I would be here on behalf of CUPE on a bill that is ostensibly about the construction industry. The fact is that this bill is not just about the construction industry. It is about the legal rights of all Ontarians wherever they work. It's about whether government should legislate away the legal right to free collective bargaining or should it respect the laws of Ontario and respect the institutions that exist to interpret those laws and adjudicate them.

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Now, regrettably, we've seen all too often of late how government has used legislation to remove the constitutionally protected rights to democratic, free collective bargaining. In 2010, the McGuinty Liberals legislated away the right to strike from 10,000 public transit workers in the city of Toronto, hundreds of whom are CUPE members. In late September 2012, the McGuinty

government passed Bill 115, taking away the rights to legal collective bargaining from 200,000 citizens in our province, including 55,000 CUPE members. In that same fall, the government published draft legislation, the Protecting Public Services Act, that would have removed collective bargaining rights from some 500,000 women and men.

Along with most Ontarians—indeed, I daresay most Liberals—CUPE members were relieved when Premier Kathleen Wynne led us all to understand that the legislative assault on collective bargaining rights was over. We were shocked, therefore, when a private member's bill to free EllisDon from its legal obligations to collective bargaining was passed at second reading, only because 22 Liberals—including nine cabinet ministers and the parliamentary assistant to the Minister of Labour—voted to pass it, when two thirds of the PC caucus weren't actually in the House to vote and the PC labour critic actually voted against it.

Bill 74 is not about the construction industry. It is about respecting the legal and constitutionally protected rights to free collective bargaining for all workers in the private sector or the public sector. It's about respecting the Ontario Labour Relations Board and the role of the Divisional Court.

Do we really want Ontario to be a place where, every time someone doesn't like a labour board ruling or a Divisional Court hearing, they can just say, "Look, I've donated some money to your party, so I'll go to Queen's Park and get a law passed to override the decision"? What's next? Will any employer who believes that they are at a competitive disadvantage come to Queen's Park, cap in hand, and beg for a law that would excuse them from their legal obligations to collective bargaining, just because they think—they proclaim, even though it may not be proven—that there isn't a level playing field?

Is that what you'd like trade unions to do, like CUPE? Should we come to you and say, "We feel that the employer has an unfair advantage, and therefore we would like you to pass a law to level the playing field"? That is the logic of Bill 74. Do we really want another Bill 115? Because, let's be clear, that is what this is.

In conclusion, this bill is everything that Ontarians are tired of: cynical politics, politics that are more about chasing votes or perhaps chasing donations than respecting the legal and constitutionally protected rights that have made Ontario the great province that it is today.

To the NDP members, I want to say thank you for your consistent opposition to this bill. To the PC members, I want to ask you to reconsider, and I want to say that, if you feel uncomfortable listening to advice from a union leader, you could always listen to the member from Lanark-Frontenac-Lennox and Addington, or you could listen to your former leader John Tory, when he pleaded with you to stop the war on organized labour.

To the Liberal members, I want to ask you to remember that the Premier promised that there would be no more Bill 115s; there would be no more passing of laws to strip away constitutionally protected rights to collect-

ive bargaining, as her predecessor has done. Let that promise be kept. Do not take it upon yourselves as MPPs to misuse the power of this Legislature to give one company a competitive advantage in any way and to strip the rights protected for workers in our province.

Respect the law. Respect the right to free collective bargaining. Respect the freedom-of-association rights protected by the Canadian Constitution. Respect the courts. Respect the Ontario Labour Relations Board. Do not pass this bill. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Fred. You've left a little bit of time: about eight minutes. So, who's going to go first from the New Democrats? Catherine Fife?

Ms. Catherine Fife: Thank you, Mr. Hahn, for coming and giving what was a very impassioned speech about worker rights in the province of Ontario. We do appreciate it.

Over the course of the day, we've heard a number of conflicting reports and delegations on what this bill actually means. This morning, the carpenters' union came into this room and said that it's out of the ordinary and a little strange that they have come here to support a bill which "eliminates bargaining rights" for unions. It was quite a powerful moment. I'll give them full credit for being candid and being honest. But there are also a lot of people who have come into this room and said that EllisDon is a good company. Actually, we have never taken any exception with the kind of company that EllisDon is, but there is a significant impact, obviously, with this bill, which is why it has generated the attention that it should.

We've heard from a member opposite—and this is what I want your thoughts on: Why don't we just perform a little bit of surgery on Bill 74? We can fix this bill: maybe change some dates, maybe not make it so broad.

What are your thoughts? Is this bill fixable?

Mr. Fred Hahn: You can't perform surgery on a procedure that kills the patient. This strips constitutionally protected rights to free-collective-bargaining an agreement that is registered and recognized. The employer and the union have to deal with difficulties that may arise from that agreement. It is not up to Legislatures to trample on rights protected by the Constitution. There is no way to fix something that is fundamentally flawed at its base.

Ms. Catherine Fife: That's pretty clear. Do you think it is a good precedent to pass legislation that allows only one company to be relieved of its collective bargaining obligations, and what do you see as the trickle-out effect of this legislation?

Mr. Fred Hahn: Well, there's a great concern about precedent. It is why we are continuing the proceedings all the way to the Supreme Court, if necessary, on the passage of Bill 115. Even though it is revoked, it sets a precedent that we cannot allow to stand in our collective labour relations history. This bill will also set that precedent.

As I tried to say, if one company or one employer can come and say that a provision of an agreement is no longer something that they like, and can get the Legislature to intervene in order to solve what they decide is a problem, that flies in the face of the labour relations history we have had in the province for generations. It makes a mockery of the labour relations board, which has already been involved in this case, and it would indeed have ripple effects beyond this piece of legislation, beyond this one company. It is why one of the previous presenters also talked about legal challenges.

The best way to have these situations and circumstances dealt with is between the union that represents the workers and the employer themselves, and to allow that to happen in the best possible way. Intervening in this way will only cause increased litigation, as it must, because the precedent is too dangerous.

Ms. Catherine Fife: You also made reference to Bill 115, which came into effect in September 2012. It has since been revoked. I think that your comparison of Bill 115 and Bill 74 is just; it's a good comparison.

Bill 115 is currently before the courts. Can you give us an update on where Bill 115 is, please? Every person in this province was promised that this government would not play these same games with collective bargaining rights, and yet here we are today.

Mr. Fred Hahn: Bill 115, as you all know, was repealed by the current government. However, there are regulations under Bill 115 which exist and which are impacting workers today; in fact, we are in ongoing discussions about that. From our perspective, regardless of the time in which that piece of legislation existed, it still forms a dangerous precedent to labour relations. It still stripped people's constitutionally protected rights to free collective bargaining. That is why we are pursuing it in the courts: to have its very existence deemed unconstitutional.

Ms. Catherine Fife: Bill 74 was contained within a large omnibus bill with some good things around tanning beds, around local food. Our good friend MPP Vanthof called it an "ominous" bill instead of an omnibus bill. What do you make of this new trend of throwing everything into a pot and then trying to slide in a piece of legislation like Bill 74?

Mr. Fred Hahn: Every last one of us should be concerned. Good measures like protection and promotion of local food and the health promotion of people in relation to things like tanning beds are all fine and dandy, but if we're stripping constitutionally protected rights from our citizens, then nothing—nothing—can be traded for those rights. They are fundamental.

Mr. Michael Prue: Which leads into my question—because I think this EllisDon matter is a matter that should be resolved through the courts.

I was a bit taken aback this morning when the gentleman from EllisDon, who is still here, said, and I'm quoting from his statement, "We are here because the unions apparently do not accept the Divisional Court's

judgment and don't want Bill 74 to foreclose the possibility of ongoing litigation...."

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I asked him a question and I'm going to ask you the same one. I think it's the unions' right, if they're not happy with a lower court ruling, to go to a higher court. They're here because they want Bill 74 to make sure that nobody can go to court and that they win. Pretty much, that's what it is. Any comment?

Mr. Fred Hahn: It's not just the unions' right; it's actually every Ontario citizen's right—in fact, it's every Canadian's right—to be able to appeal a decision of the court if they believe that it is in contravention of the law or process and practice, so removing that right is also a problem.

Look, I won't comment on whether or not the courts are the best way to deal with this, but I will reiterate what I said: The very best way for labour relations to unfold in any situation is when the union representing the workers and the employers sit down and work out an agreement. That is the way that things have happened for generations. It's the way things should happen here.

Mr. Michael Prue: And I believe my colleague, Mr. Natyshak, may have some questions.

The Chair (Mr. Kevin Daniel Flynn): You're down to two minutes, Taras.

Mr. Taras Natyshak: Two minutes; thank you, Chair. I've got so many questions for you, but your presentation, I think, covered the gamut. It was well-nuanced and I think addressed the real heart of the issue, which is an affront to the democratic process and a real affront to the rule of law ultimately.

This bill came out of nowhere and it bubbled to the top of the priority list, to the top of the omnibus bill—ominous bill. It also came with glowing recommendations from the opposition and the government side. I've yet to see that ever in this Legislature, other than Bill 115.

Do you think there's a pattern here at the Legislature where we see labour law being able to be circumvented for special interest groups, for singular purposes? What do you think that tells the broader public out there about the functions of our democracy and our Legislature?

Also, I'd like you to comment specifically, potentially, on the OLRB and the decision that led to this going to the Divisional Court. Do you think there's a broken system there? Should the OLRB have closed this and given it some finality?

The Chair (Mr. Kevin Daniel Flynn): And you'll have to do that all in about 28 seconds.

Mr. Fred Hahn: Twenty-eight seconds; there you go. Let's see. I articulated the number of ways in which labour rights have been a political football. That's inappropriate because you can't have the rights of people be a political football, and shame on those who would do it.

The labour relations board is a well-respected entity. It's an entity of the government. Its decisions in these matters ought to be respected and final. It intervened

here; it gave a ruling that was fair and reasonable and allowed people to proceed. It's unfortunate that that wasn't the end of it.

Mr. Taras Natyshak: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Fred. Good time management.

Mr. Fred Hahn: Thanks.

The Chair (Mr. Kevin Daniel Flynn): Thank you for coming today.

SHEET METAL WORKERS AND ROOFERS, LOCAL 235

The Chair (Mr. Kevin Daniel Flynn): Our final delegation of the afternoon is from the Sheet Metal Workers and Roofers, Local 235, if you'd like to come forward, Mike and Jay.

Interruption.

The Chair (Mr. Kevin Daniel Flynn): If there are any conversations, could we have them outside? Can we call to order? Any conversations, we can have them outside this room.

Jay, Mike, you've got 15 minutes like everybody else. I think you've been here all day; you know what the rules are. The final questions of the day will come from the Liberal side. The floor is yours.

Mr. Jay Peterson: Thank you very much, Mr. Chair, committee, union brothers and sisters and the good employees of EllisDon. I appreciate being here and I respect everyone's job in this process, and hopefully people respect sheet metal workers as well.

My dad was a union sheet metal worker. I'm a sheet metal worker by trade. My grandfather was a millwright. My grandfather was squashed to death on the job one day and never came home, when my dad was 13. So when I got started in the union, my dad made it an important point to be active in health and safety, having lost his father. He told me what the union means for health and safety. That's how I got started in the union, on health and safety.

I remember noting, as I got trained in health and safety, that our health and safety depended on the legislative pen, that it wasn't just about what happened on the job site; it was what happened in this building.

I was on many EllisDon jobs as an apprentice and as a journeyperson. My very first job was an EllisDon job at 160 Bloor. I worked at the SkyDome at the time, and I remember going down to the ACC under the Mike Harris government as he was setting up a table on that job site to tell us how he was going chop our trades up into little, itty-bitty bits because it was too expensive to have complete tradespeople. It would be much better to have partial tradespeople. Well, I have a loud voice and he left that job site in hurry, and the press conference didn't go through.

I also remember being here at this Legislature with about 200,000 people outside making a lot of noise as nothing moved in this town—the Metro Days of Action. That was brought on by Mike Harris as he came out with

Bill 7, Bill 15, Bill 31, Bill 55, Bill 99 and so on and so on—a little bit like Bill 22, Bill 73, Bill 74, Bill 94 and others that are coming right now. The only thing is, back then, Mike Harris didn't need anyone to do these things with him; he could do it himself. We're still reeling from the unrest and the problems that that caused this province.

I thought that when a Liberal government got into power, we would have balance. This government preached balance; this government preached consultation; this government preached about talking to stakeholders to come up with solutions for Ontarians. Well, sheet metal workers are Ontarians.

There's a bottom line to this bill. We can talk about deals made and we can talk about big companies and their economic importance, and we can talk about legislation and 160 and 163 and all these things that our great legal people keep things on the rails with, but there's a bottom line here: If this bill goes through, sheet metal workers around this province that happen to land on an EllisDon job will make less money. It's about workers making less money—less benefits, less quality of life for their family, and not as much economic viability for our communities.

It's really nice if you have a union job and you maybe have a little bit left over at the end of the week to take your family out for dinner and invest in your community; to be able to partake on your main street and have dinner in a restaurant. When you're working non-union and you don't have all those benefits and you're the lowest price and you're the lowest-paid worker, it's kind of tough to contribute to society the way that union members do. We talk about our disappearing middle class—this bill aims right at the middle class. You're taking away a middle-class job and you're making it a lower-paying job. That's not what we're here to do; we're here to build up Ontario.

There are a lot of tools out there that can be used to achieve these things, as you've heard today. There are project labour agreements, which was Mike Harris legislation brought in to satisfy owners, specifically the petrochemical industry in Sarnia, who wanted a way to use the great union workforce but wanted some stability. So they came up with project labour agreements where, if the proponent is the owner and they want a project labour agreement, we're called into that agreement and things are worked on from there legislatively. It works beautifully. I'd say there might be one amendment to that: that project labour agreement has to be started by the owner. The owner is the proponent. Maybe general contractors could be a proponent as well, so that they can work on things without dragging all of our issues in front of an owner before the project even starts, so that we could work on things together with the unions and the generals and then go to the owners with a good package. I think that might smooth things out a little bit in Ontario.

Not only are there project labour agreements for all trades, but in our constitution—you've heard of resolution 78, where our local area business managers can

adapt a collective agreement to suit specific needs and help our competitiveness. Mike Mahon—I'm sorry; I forgot to introduce you, Mike—our business manager from the Windsor local, Local 235, will talk a little bit about resolution 78.

There's also market recovery funds. These are funds that come out of our pay package. We get so much pay that we've negotiated. Name me one other industry in this entire province where workers give money back to their companies to make them competitive, out of their own pay packet, out of their own free will. Name me one other industry.

1510

Our contractors are very lucky that we have this program. We're the only workers in Ontario that give money back to our employers so they can go out and get more work, because if they don't work, we don't work, and no one wants that. So they have the stabilization funds, they have resolution 78, they have project labour agreements and they have the telephone.

We're very lucky in Ontario also, because we have the Ontario Construction Secretariat. It's a tripartite, mandated body that has labour, management and government parties on it. I suggest to all of you to come out to some Ontario Construction Secretariat functions and see how this industry works together. See how we put together best practices, from safety to bidding to jurisdiction and all the good things we work on there. That's where the progressive—that's where this industry is going, down the secretariat path of working together to put on a good show for owners and clients and to take care of Ontarians. Please come to one of those; they're very informative.

I would say, in wrapping up, before I hand over to Mike Mahon, my brother from Windsor, that this interferes with traditional and due process. We're doing what we're supposed to do, the way we're supposed to do it. As trade unions, we're representing our members diligently—not excessively, but following what is laid out in law. Please don't interfere with that.

This takes away workers' rights; that was talked upon. These are rights, our rights. Twenty-two people voted for this, without even understanding this bill, to take away rights. To me, that's shocking.

Ontarians will make less wherever they work, under this bill, so if you're trying to strengthen and bring Ontario up by its bootstraps, you're paying people less, and that's not what our communities need, especially outside of the GTA.

This bill creates no new jobs. We talk about jobs, or modernizing the labour movement and bringing it up to this century or whatever. This does not create one job. It just means somebody else might bid on it or build it.

With that, I would like to thank the committee for hearing my words, and hand it over to my esteemed brother Mike Mahon, from Windsor, Ontario.

Mr. Mike Mahon: Thank you, Jay.

The Chair (Mr. Kevin Daniel Flynn): Mike, you've got just over seven minutes.

Mr. Mike Mahon: Yes, okay. Thank you.

I just want to first thank the committee for the opportunity to come here and speak to you and let my members' voices be heard.

I just want to tell you a little bit about my experience as a worker in the province of Ontario. I'm a husband, a father of three and a soon-to-be grandfather. I started out as a non-union apprentice in 1984, and I joined my union in 1994. I worked on several projects, industrial, commercial and institutional, one of which was the Windsor Regional Hospital, at Met campus. I was a foreman there, and that project provided me with a decent wage and benefits for over two years.

That project was an EllisDon project. The hospital was expanded, renovated. That's the same hospital where my youngest daughter is doing her placement for nursing and the hospital where my granddaughter will soon be born.

If it was not for the decent wages and benefits that I earned, I don't think I would be able to send my children to post-secondary education. I have one that is an office administrator and has been there for 10 years, one that's going to be a bilingual teacher and one that's going to be a nurse.

I was elected to serve my members in 2007, and I've been the business manager since that time.

Our area was probably one of the hardest hit in the province, with the highest unemployment rate. In order to keep my members working, we have done many things to help our contractors maintain work: with our enhancement fund, with our Resolution 78—we've used that on several projects, and also with the IBEW and the UA. A couple of them were the University of Windsor engineering building, the Amherstburg arena, the Leamington municipal building and ongoing work at Meritor in Chatham.

We are committed to help our signatory contractors in any way we can to be successful in obtaining projects.

In conclusion, I just want to say that we are strongly opposed to Bill 74. The government is attempting to supersede a ruling handed down by the OLRB. We urge the committee to recommend that Bill 74 not be passed at third reading. Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Mike. Thank you, Jay. Mitzie?

Ms. Mitzie Hunter: Thank you both for your presentations and for explaining a little bit about your personal backgrounds and history.

I just wanted to ask you, are there any current contracts that will be affected, that you're aware of, under your particular local?

Mr. Jay Peterson: EllisDon would probably be a better person to ask. They know what they've got on their books.

Ms. Mitzie Hunter: Okay. How specifically does this agreement affect you?

Mr. Jay Peterson: Being in a union has given me everything that I have. I came to this town in a 10-year-old Camaro with a bag of clothes, and I started my apprenticeship. From that, I have a nice, comfortable life

in a middle-class neighbourhood. I think that this bill will limit others from enjoying the same thing that I have.

We keep talking about wanting a civilization where we can expect better things for our kids. This one, unfortunately, in my trade, for my son, goes the wrong way, and maybe he won't be able to enjoy the opportunities that I've enjoyed.

Ms. Mitzie Hunter: But in terms of ongoing construction work under this agreement, I'm just wondering, how does the Divisional Court decision, or this bill, affect that, in your opinion?

Mr. Jay Peterson: You've heard that we're continuing on a due process as set out, so we'll be continuing along that path. You've heard my business manager at the Ontario conference talk about challenging this, as it may be a breach of our rights and our freedoms. I think we're at a certain point today with our legal issues, but it's not over.

Ms. Mitzie Hunter: Okay. Do we have more time?

The Chair (Mr. Kevin Daniel Flynn): Thank you, Mitzie. Soo?

Ms. Soo Wong: I, too, want to say thank you very much for coming before the committee.

I just want to get some clarifications, because a couple of the previous witnesses before the committee this afternoon made suggestions about some surgery to this bill and tinkering with it. I just wanted to hear your opinion with respect to that piece, because there were some suggestions made by previous witnesses, asking for maybe some tinkering. What's your opinion about that?

Mr. Jay Peterson: You're still taking away the rights of sheet metal workers.

Ms. Soo Wong: I just heard earlier that there were some suggestions that maybe, if we could refine some portion of—

Mr. Jay Peterson: Right. And in that tweaking, do the sheet metal workers keep their rights or do they lose their rights?

Ms. Soo Wong: I just want to hear your opinion—

Mr. Jay Peterson: We would lose our rights.

Ms. Soo Wong: I wanted to see if we could continue to do some work. But I want to hear, from your opinion, if there was some tinkering that would still respect rights of the union and continue to address some of the concerns that you have identified, and others have as well, this afternoon.

I want to get your opinion with respect to the fact that if the bill—because through this committee, not only hearing the witnesses today, we will be looking at it clause by clause, and that's where the clauses can be improved or changed or deleted or amended. I want to hear your opinion, from your particular union, if there were changes to which section of the bill—if there were some refinements, improvements, and protecting your rights, that kind of stuff. I would like to hear that, please.

Mr. Jay Peterson: Thank you. I agree with my brother from CUPE, Mr. Hahn: There's no fixing this. It's fundamentally wrong, and you're taking away our rights. So the person who keeps moving this, Mr. Del Duca, talking about snipping it here and there, is maybe a little afraid of the over-sweeping—the broadness of this act, and has no problem snipping that broadness out but still taking away the rights of sheet metal workers. I think I've answered you about three times about amendments to this bill, and the point of view from the sheet metal workers.

Ms. Soo Wong: Okay. Thank you very much. Thank you, Mr. Chair.

The Chair (Mr. Kevin Daniel Flynn): Thank you, Jay. Thank you, Mike.

Mr. Jay Peterson: Thank you.

The Chair (Mr. Kevin Daniel Flynn): Thank you, committee members. That was the last delegation of the day.

Before I adjourn the meeting to Thursday, October 24, 2013, for clause-by-clause consideration of Bill 74, I'd like to remind members of the committee that the deadline for filing any amendments to the bill will be 12 noon, Wednesday, October 23, 2013.

Thank you. The meeting is adjourned.

The committee adjourned at 1518.

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