



CHRISTIAN LABOUR ASSOCIATION OF CANADA

Submission to the Standing Committee on Social Policy Regarding
Bill 144, Labour Relations Statute Law Amendment Act, 2004.

April 29, 2005

INTRODUCTION AND BACKGROUND

The Christian Labour Association of Canada (CLAC) is an independent Canadian trade union representing more than 30,000 members. The union's members work in a wide variety of sectors, including construction, health care, manufacturing, retail, transportation, service, and as volunteer firefighters.

CLAC's approach to labour relations is based on Christian social principles including partnership, integrity, and democracy. The union is politically neutral and does not support or endorse any political party or candidate. However, it is active in speaking to government on work-related issues that concern its members. CLAC is independent of the Ontario Federation of Labour and the Canadian Labour Congress, but it does belong to the World Confederation of Labour, the world's oldest confederation of trade unions.

THE PURPOSE OF BILL 144

We understand that the purpose of the Bill is to seek to restore balance to labour legislation in Ontario. We support that intent, and note that legislative changes made by the previous provincial government deliberately and effectively created an imbalance.

REMEDIAL CERTIFICATION

It is unfortunately reality that employers, in the face of a union organizing drive, are often tempted or even advised to take extreme measures to defeat the union. In our experience, this has been increasingly the case since the remedial certification provisions were removed from the *Labour Relations Act*. An employer with little regard for the law might choose to wrongfully terminate a union organizer, knowing that reinstatement might be required at a later date but that in the meantime, the “chill” effect would likely damage or stop the union drive.

The impact of the remedial certification process does not stem from its frequent use. Rather, it has a major effect by its presence alone. Knowing that blatant violations of the law can lead to remedial certifications, even the most hostile employer is forced to consider the consequences of such actions, and will generally choose to act appropriately. We do not anticipate that the restoration of remedial certification provisions will lead to a deluge of such applications, but we do expect that the provisions will effectively encourage employers to respect their employees’ rights during a union drive.

We also support the provisions relating to contravention by a trade union. However, in light of the proposed provisions to allow limited card-based certification, we urge you to consider more specific language relating to union activity in gathering membership evidence for certification. In particular, some unions have a practice of asking employees to “sign here for information”, with the intent of having the employee unknowingly sign a membership application. Specific provisions rendering such evidence invalid should be considered.

INTERIM ORDERS

We support these provisions. Justice delayed is justice denied, particularly in the context of a union organizing campaign, where the wrongful termination of an employee must be dealt with rapidly. The potential harm in delay—which might cause

other employees to refrain from exercise their right to associate with the trade union—outweighs the limited harm which interim orders might cause the employer.

CARD-BASED CERTIFICATION

Employees who seek to exercise their right to join a union are in a vulnerable position. They are often not working under a collective agreement and the organizing union has a limited ability to offer protection and representation. Under the current card-and-vote system, employees essentially have to vote twice. They must first choose the union by signing a membership application, and then must choose again in a secret-ballot vote. This allows the employer, or perhaps a competing trade union, the opportunity to place undue pressure on the employees between the card “vote” and the secret-ballot vote.

We support the restoration of card-based certification, but are strongly opposed to limiting such a process to the construction industry (we are a trade union which operates both in and outside of that sector). We see no valid reason for this limitation. If the proposed change is good public policy—and we believe it to be—it should be extended to employees in all sectors.

DECERTIFICATION INFORMATION

The existing law requires the posting of decertification information in unionized workplaces but does not require the corresponding posting of certification information in non-unionized workplaces. The present situation is obviously not balanced, and we support the effort to rectify this. We would prefer, however, that a different approach be taken and that balance be achieved by requiring all workplaces, union and non-union, to post information relating to certification and decertification. This would best achieve the objective of providing information to workers about their rights.

OTHER IMPORTANT MATTERS

While this Bill makes some important and necessary changes to labour legislation, we are concerned that certain other major issues are not addressed at all. These include:

- The need for legislation provisions banning the use of replacement workers;
- The need for provisions giving agricultural workers the right to access meaningful union representation;
- The need for legislative protection of full-time firefighters who also volunteer as firefighters (“double hatters”) and as a result are being threatened with the loss of their full-time employment;
- The need for legislative amendments to deem volunteer firefighters (who are increasingly becoming unionized) as an essential service. Under the current legislative scheme, they are treated as any other non-essential employees, who can strike and be locked out. This could lead to disastrous situations where certain areas could find themselves with no access to fire suppression or emergency response services; and
- The need for amendments to the *Labour Relations Act* to protect employees who exercise their right to change from one union to another (displacement). Under what appears to be a loophole in the current scheme, any grievances carried by the incumbent union at the time of displacement cannot be taken over by the incoming union, and yet the incumbent (outgoing) union does not have a Duty of Fair Representation to finish those grievances.

We appreciate the opportunity to make these submissions.

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