

Presentation to **The Changing Workplaces Review**, June 16, 2015

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Good Afternoon Mr. Murray and Mr. Mitchell,

I'm Marty Warren and I'm the Ontario Director of the United Steelworkers.

We are pleased that the government has initiated the Changing Workplaces Review and we welcome your role in leading this process.

I'm here today on behalf of our 70,000 members in Ontario.

We have become one of Ontario's most diverse unions, with members in just about every sector of the economy, from private sector services to mining, from manufacturing to public sector workplaces like universities, in every region of Ontario.

We speak from decades of diverse, innovative and often challenging labour relations experience.

Our union exists to improve the economic security of our members, to defend and secure their health and safety on the job and to help extend their engagement in their communities and in our wider society.

The government's Speech from the Throne almost a year ago stated that *"Ontarians seek good jobs not as ends unto themselves, but as the means by which we can achieve our goals and do more for ourselves and our families."*

We agree with this statement.

Too many Ontarians are working very hard in jobs that are not helping them meet those goals. As the government has made clear, the world of work is becoming disfigured by what everyone is now calling "precarious employment".

This new world is not the result of some natural or unstoppable evolution.

It is in large measure the result of deliberate policy choices by successive governments on labour and employment issues. Those policy choices have tilted the playing field in favour of employers by increasing their power in the workplace.

The results have been bad for our province's economy and the quality of life of its people.

We need a return to balance and fairness in Ontario workplaces. And the means by which we can achieve that balance and fairness are clear: first, strengthen the capacity of employees of all types to freely choose union membership. Second, ensure that employees, through their unions, are able to engage in effective bargaining. Third, provide a solid foundation upon which all workers can seek to improve their working lives.

A guiding principle of my presentation today, and of our presentations at your upcoming sessions, is that there is no substitute for the role of freely chosen, democratic, representative unions that are independent of influence/control of employers and that also possess the legal foundation and the resources to engage in real bargaining.

Many worthy public policy goals are directly associated with intelligent, progressive collective bargaining and higher rates of union membership:

- reduced inequality
- better purchasing power for union members and non-members alike
- a reduced gender pay gap
- greater access to retirement security

- lower poverty rates
- and higher voter participation.

The International Monetary Fund has recognized the contribution of unions to these social goals and has noted that growing inequality is a drag on economic growth.

We will submit our full written submission to you in September and you will also hear from our members at your future public consultation sessions.

Today I will highlight some of the main areas that are overdue for thoughtful reform and I'll start with the rights of employees to organize.

Section 5 the Labour Relations Act sets out the legislature's guarantee of the right of every employee to join the union of her choice.

But the reality is that far too often in Ontario this right is unreachable.

It is fenced off by employer opposition and by the legitimate fears held by workers of outright reprisals and discrimination by their employers.

Public opinion data shows that support for joining a union jumps by 10%-12% when people are asked how they would vote if they could be guaranteed that their employer could not punish them for their union support .

This data is confirmed by the real life experiences of Ontario workers every day.

This Review asks many excellent questions in its consultation guide. One more question that the Review should address is this:

In the advanced, democratic society that is Ontario, how is it that we have a legal regime in which people fear a risk to their livelihood if their employer knew about their support for a union?

The current system, when actually experienced by working people is a system inherently tilted in favour of employers.

The reasons are clear. When compared to the card-check system, the two-stage, mandatory vote system ensures that there is more capacity, more time, more opportunity and more incentive for employers to oppose their employees' efforts to join unions.

A study in British Columbia of the shift to the mandatory vote process showed that employer opposition, as measured by unfair labour practices, was at least twice as effective under the two-stage voting system as in the card-check system.

The current voting system, even with its quick, five-day vote and its secret ballots, fails to account for the unique power dynamics that exist in the employment relationship.

I'll say it as clearly as I can: there is no equivalence between a political election and a union representation vote.

Union votes are unlike any other kind of "election" because of the fundamental, inherent and often coercive power that employers hold over employees – the power to fundamentally change or even deprive employees of their livelihood and to control their pay, hours and working conditions.

On top of the power imbalance inherent in the employment relationship, imbalances between employees and their employers in access, information and influence exist under the Labour Relations Act. These imbalances

increase the distance between employees and their ability to exercise their right to freely join the union of their choice.

Our upcoming presentations to these public consultations will feature working people who in their organizing efforts have directly experienced the challenges posed by the law's shortcomings.

A 1991 study in British Columbia concluded:

“The use of representation votes as a condition of certification does not further democratic rights, but instead serves the interests of the employer who would wish to influence his employees’ decision on the question of union representation.”

Therefore, our union encourages the Changing Workplaces Review to advocate for a return to the time-tested system of card-based certification that was in use in Ontario from for decades under successive Conservative, Liberal and NDP governments. Far from being an old solution to a new problem, card check’s renewal would right the deliberate wrong enacted by the Harris government and it would establish parity with the rights provided to employees in the construction sector.

In addition to card-based certification, we also call upon the Review to motivate the government to enact other vital changes to bring the organizing process closer into line with democratic practice and expectations.

Among such changes, we will advocate for:

- providing employees and their unions with access to accurate employee lists much earlier in the organizing process
- enacting just cause protection during organizing campaigns, or at the very least while awaiting a first collective agreement

- strengthening the Labour Board's interim powers to return employees to work who have been terminated during organizing efforts
- removing Section 8.1 from the Act
- providing stronger powers for the OLRB to impose fines and penalties in the case of breaches of the Act by employers or by unions
- encouraging votes to be held in neutral locations or by electronic means where possible
- and firming up the provisions around first contract arbitration.

Once employees have a union, they must be able to engage in effective bargaining. So our union strongly advocates three key changes that the Review should promote to the government in order to counterbalance the negative effects of the changing workplace landscape on employees and the disproportionate bargaining power held by employers:

- a ban on replacement workers during strikes and lockouts;
- an end to the 6 month limit on the right to reinstatement of striking workers during a labour dispute
- and access to arbitration in cases of protracted strikes or lockouts which would allow either party to seek binding arbitration of outstanding issues.

Next, we support the innovative recommendations that will come before you in respect of building a truly 21st century Employment Standards Act that treats employees equally, that sheds its current patchwork of exclusions and loopholes and that provides a strong foundation upon which all working people can stand and seek a better future. The tremendous advocacy and

diligent research done by the Workers Action Centre and the Law Commission of Ontario provide you with a roadmap in this regard.

And lastly for today, we want to address the matter of being able to keep one's union and not have it removed with the flick of a pen.

Employment in sectors such as security, cleaning, food services and other areas is growing rapidly in Ontario. Employees in these sectors are often low-paid and vulnerable workers.

Your Review should advise the government that it is time to extend 'successor rights' protection to those who work in the rapidly increasing contract services sector.

Our union represents thousands of security officers employed by companies that provide contract security services on the properties and in the workplaces of third party clients.

There is no defensible reason not to extend 'successor rights' to the thousands of especially vulnerable employees in the contract services sector who lose their union membership and collective agreement protections when service contracts are retendered.

Low income workers employed as security guards, food service workers and cleaners deserve the same rights as all other employees in Ontario.

If the government supports the choice of employees to be represented by a union, then it can no longer allow the burgeoning ranks of contract service sector employees to lose their bargaining rights simply because the third party client has decided to change contractors.

So as I wrap up, I want to remind you that during future public consultation sessions, members of our union will provide you with some personal accounts about the issues I have briefly talked about today.

They look forward to telling you their stories and to expressing to you their hopes for a better future.

And in closing I thank you for your time and I look forward to continuing our input to you over the coming months.

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