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Jeudi 7 juin 2012

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Peter Tabuns
Clerk: Tamara Pomanski

Président : Peter Tabuns
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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Thursday 7 June 2012

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES RÈGLEMENTS ET DES PROJETS DE LOI D'INTÉRÊT PRIVÉ

Jeudi 7 juin 2012

The committee met at 0901 in room 228.

LABOUR RELATIONS AMENDMENT ACT (FAIRNESS FOR EMPLOYEES), 2012

LOI DE 2012 MODIFIANT LA LOI SUR LES RELATIONS DE TRAVAIL (ÉQUITÉ À L'ÉGARD DES EMPLOYÉS)

Consideration of the following bill:

Bill 77, An Act to amend the Labour Relations Act, 1995 with respect to enhancing fairness for employees / Projet de loi 77, Loi modifiant la Loi de 1995 sur les relations de travail en vue d'accroître l'équité à l'égard des employés.

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We're here for public hearings on Bill 77, An Act to amend the Labour Relations Act, 1995 with respect to enhancing fairness for employees.

Just as a note to committee members and our guests today, we have an awful lot of people who want to talk to us. I'm going to be very sharp on the time; otherwise, we'll wind up with people being left off.

CANADIAN UNION OF PUBLIC EMPLOYEES, LOCAL 79

The Chair (Mr. Peter Tabuns): I'll now call on Tim Maguire, president of the Canadian Union of Public Employees, Local 79, to come forward. Mr. Maguire, you have 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. Please state your name for Hansard and begin. Thank you.

Mr. Tim Maguire: My name is Tim Maguire. I'm the president of CUPE Local 79. Here in Toronto, we represent approximately 20,000 members—city of Toronto inside workers, Toronto Community Housing Corp. and at Bridgepoint hospital. In the city of Toronto we represent people that work in public health, long-term care, employment and social services, parks and recreation, housing, and court services. We are child care workers, ambulance dispatchers, city planners, hospital workers and, to get more specific, we also represent cleaners that work throughout the city and particularly at the police stations in Toronto. In the course of their work day—the programs and services that our members provide—they come in contact with the entire spectrum of the diversity of the city of Toronto. They touch lives across the city of Toronto with the services they provide.

CUPE Local 79 is wholeheartedly in support of this bill, Bill 77. Every worker in Ontario deserves to be able to exercise their democratic right of freedom of speech, of freedom of assembly, without reprisal. Canadians have a proud tradition of placing a high value on these rights. Ontario workers deserve nothing less, to do what can be done to protect those rights. Unfortunately, under current law, employers can bully, intimidate and even fire, often with impunity, merely for attempting to organize. Bill 77, the Fairness for Employees Act, enhances Ontario's Labour Relations Act with a few modest, uncontroversial—or should be seen as uncontroversial—reforms that can be easily implemented with support from all parties in this place.

In 1995, the Harris government enacted legislation called the Labour Relations Statute Law Amendment Act. At the time, the act was dubbed by many critics as an act to gut the rights of Ontario workers, and in many ways it did just that. That piece of legislation essentially eliminated 50 years of progressive labour law tradition in Ontario.

CUPE Local 79 believes that Bill 77 will begin the necessary return to an era when more progress was at least being made, including under former Premiers John Robarts, Bill Davis and David Peterson. All of the workers in this province need to have the fundamental democratic right to organize. If workers want to organize under that right, an employer should not be able to threaten them with job loss. That's just wrong and flies in the face of the democratic rights that so many workers over the past century have worked so hard to achieve and made so many sacrifices for.

Vulnerable workers need to have the tools to protect themselves. This current legislation is often failing the most vulnerable workers in Ontario, many of them who are women, first-generation Canadians and part-time workers. Bill 77 will give them much-needed tools and will help to make workplaces across this province better for all workers.

To talk about some of the specifics of Bill 77, it would provide more protection under successor rights when businesses are sold, for some of the most vulnerable

workers; for example, cleaners and food service employees. The issue of cleaners earning a living wage, which our members do, is very near and dear to our hearts. Unfortunately, cleaners working for many of the contractors in the cleaning sector earn only poverty wages. Many of these contractors are non-union and often ignore employment standards and WSIB rules, and misclassify employees to avoid mandatory payroll deductions.

There is an agenda which seeks to reduce wages in the cleaning industry from the official wage in the cleaning industry to minimum wage—to as close as they can get to minimum wage. Currently at the city of Toronto, contracts are going out at under $13 an hour, even in police stations where those workers ensure that not only the public but the officers that serve the public are safe from contaminants and that those workplaces and public buildings are clean.

Some have stepped up in order to ensure that that floor does not go too low. The Toronto and York Region Labour Council has done a lot of work on this, and there are some city councillors who have stepped up to ensure that cleaners are treated with respect and have a decent standard of living for the services they provide. Again, it's also about ensuring that people are safe, not only the public but, in the instance of police stations, officers as well.

Whether it is at police stations or other areas at the city of Toronto, cleaners in the private and public sectors deserve to have a living wage. Again, there is a move there to drive down that wage as far as possible from the official wage, and then things happen where there is subcontracting and attempts to get around the law and pay even less.

In terms of interest arbitration procedures for a first contract, Bill 77 amends the current act to provide an additional route for binding arbitration. I think this will be helpful to parties who have applied to the Ontario Labour Relations Board to direct the settlement for a first collective agreement by arbitration.

Again, all too often workers can be threatened with termination or other intimidation when attempting to organize. We think this bill goes in the direction of trying to have that stop.

So, what are we looking for? In conclusion, I would just say that all the elected members of this Legislature should see these amendments as not too much to ask for. There are those, as I said, stepping up to try to ensure that the floor for workers, in terms of wages and other standards, does not fall. There are a few amendments here that are easily done and easily administered, so the Legislature should support these measures.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Maguire. We have five minutes for questions, and we start with the official opposition.

Mr. Jim McDonell: Thank you, Chair. I know that you highlighted some of the issues with the cleaning industry, but this is really a bill that affects all people in Ontario. I'm somewhat concerned why you would think that the free and open ballot fails us. It's really the basis for our democracy and the basis for everything we do. Why, in the case of giving people a choice of whether they belong to a union or not, does it fail the system?

Mr. Tim Maguire: First, your first statement is absolutely correct. This is something that would benefit all workers in the province. I come from a farm background, and there are folks there who need the help of this Legislature at some point as well. Workers across the province should have the right to be able to organize without intimidation. That's the point here. Workers need to know that they can organize without fear of reprisal, and it would be turning a blind eye if we thought that there weren't reprisals and intimidation happening when workers attempt to organize into a trade union.

Mr. Jim McDonell: But you still haven't answered my question. I think you're trying—the effort to move toward a more significant card-based certification versus a free and open ballot. In my mind, if it's a secret ballot your choice is really your choice. Nobody else knows that, whereas in card-based certification everybody knows. So I really see that as a retraction from people's rights.

0910

Mr. Tim Maguire: Others will be able to answer that more specifically, but my understanding is that if people have signed up for cards, they've already put their name on their wish to belong to a trade union.

Mr. Randy Pettapiece: I see here that you are looking for telephone and online certification votes; is that correct? Is that part of your proposal?

Mr. Tim Maguire: That's part of the bill.

Mr. Randy Pettapiece: Do you not see a danger in this type of thing, that it could lead to some fraud?

Mr. Tim Maguire: I think that it's something that should be explored and there could be measures put in place to protect.

Mr. Randy Pettapiece: In this day of online things, you know as well as I do—at least I think you would—that it's fairly simple for the wrong person to get hold of this thing and do some fraudulent practices. That's what I have an issue with on this bill, that we could see some things done and it would be very hard to track that if we were to permit the telephone and online certification. Can I ask your opinion of that?

Mr. Tim Maguire: Someone else will probably address that more specifically today. I'm here to talk about the other aspects—the intimidation factor in people trying to organize.

Mr. Randy Pettapiece: Thank you.

Mr. Jim McDonell: I guess, being from the farm as well, I've been aware—I worked with many organized groups and I fail to see how stepping away from the secret ballot would lead to anything but intimidation, whether it be on either side, because we, of course, have heard both sides of the story. Any time that your vote has to be exercised or can be exercised in front of somebody, I just have a problem with that. People should not, at the end of the day, know how you voted. That's the whole basis for our country. It's been something we fought for

over many wars and something that the Progressive Conservative Party stands for, and I just can't see going against that belief.

Just to add, we've been through municipally with some electronic voting. We've had some charges laid for different candidates in some of the areas close to us. I hate to bring up those charges because I know that—I'm sure with the system that's in place, where you receive cards in the mail, there are just problems with it. Although there was one court case, I don't think people have any idea what the real problems are in a case like that. It really comes down to a system that's open to abuse. Even if it's not abused, it loses a lot of its credibility. Anyway, thank you.

Mr. Tim Maguire: I guess it depends on the intent of one's use for that technology. I don't know that the two are related.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Maguire. Before we—you're finished. That's okay. I just need to check with the committee on something.

We didn't have clear instructions from the subcommittee on how questions would be asked. Typically, we have gone five minutes to opposition and then the next questioner gets five minutes and so on. Is that the system that you, as a committee, want, or do you want to split the five minutes?

Mr. Taras Natyshak: Five minutes of rotation, sounds good. Sure.

The Chair (Mr. Peter Tabuns): Okay. So you would get the next question. The Liberals would get the next question and so on. Okay.

Interjection: If time permits.

The Chair (Mr. Peter Tabuns): If time permits. Okay. Thank you very much, Mr. Maguire.

Mr. Michael Coteau: Mr. Chair, with the understanding that if there's leftover time, will it go to another person?

The Chair (Mr. Peter Tabuns): Yes.

Mr. Michael Coteau: Perfect.

The Chair (Mr. Peter Tabuns): We're all good.

CANADIAN UNION OF PUBLIC EMPLOYEES ONTARIO

The Chair (Mr. Peter Tabuns): The next speaker: Mr. Fred Hahn, president, Canadian Union of Public Employees Ontario. As you know, you have 10 minutes for your presentation. There will be up to five minutes of questions. Please give your name for Hansard and begin.

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

CUPE represents workers in virtually every riding and every community in the province—in municipalities, in hospitals, in long-term-care facilities and home care, in social services like child care and Community Living, and thousands more work in our public schools and our universities all across the province.

First of all, on behalf of our 230,000 members in the largest trade union in the province, we're extremely pleased to appear before you as the standing committee on Bill 77.

I want to express special thanks to the member from Essex from the NDP, the labour critic, Taras Natyshak, for bringing forward this long-overdue legislation.

Bill 77 is entirely grounded in Ontario's historical approach to mature, responsible and democratic employer-employee relations. It's about supporting the rights of workers to make individual decisions about joining or not joining a union and to do so democratically and free from fear of losing their job.

Bill 77 has five basic components. The first is access to employee lists. By allowing unions access to employee lists, information that only the employer holds, it makes it possible to alert workers to the fact that there is an option in joining a union and it is one that they are legally entitled to consider. It puts those employees in a position where they can ask for information about what the union option entails. None of that is possible now, because the union can only talk to certain employees, because the employer has the information, and under current provisions, lists are only accessed at the end of an organizing campaign, two days prior to the vote.

The second provision of the bill speaks to neutral voting locations. Now, I would ask you all to think about whether it would be appropriate in a provincial or federal election to allow a polling station to be located inside the offices of one of the political parties running in the election. I think we would all think that wasn't appropriate, but under the current law, the vast majority of union representation votes actually happen on the premises of the employer. The same logic that we follow in our provincial and federal elections ought to apply to these kinds of votes, union representation votes in workplaces, and that's what Bill 77 would ensure. Otherwise, we make a mockery out of the notion that workers should be able to make a choice free from the fear of losing their jobs.

The bill speaks to first-contract arbitration. Now, when there's no tradition of collective bargaining between an employer and employees, and things break down—there could be a standstill with no resolution in sight, the possibility of a strike or a lockout looming—what Bill 77 would allow is a resolution of the matters in dispute by a referral from either party to binding, neutral, third party arbitration. This same kind of provision has been working successfully in Manitoba, for example, for many years, and implementing it here would ensure a peaceful resolution to what can sometimes be difficult first-contract negotiations.

In a study published earlier this year, Susan T. Johnson found that first-contract arbitration reduces the incidence of work stoppages associated with negotiating first agreements by a substantial and statistically significant amount. She also found that there is no evidence to suggest that the parties involved in negotiations of a first agreement rely on arbitration to settle their differences. Application rates and imposition rates are low across jurisdictions where this exists. It appears that the

presence of first-contract arbitration legislation creates an incentive for both parties to reach an agreement without resorting to work stoppages or arbitration itself.

The bill speaks to extending successor rights to vulnerable workers. By extending Ontario's existing successor rights law to workers in the security industry, in cleaning, in housekeeping services, in food services and in home care, Bill 77 allows thousands of vulnerable workers to enjoy the same rights already enjoyed by other workers. Since the 1950s, Ontario has realized that employees who legally form a union shouldn't lose those rights simply because the business is sold or transferred, something over which they have no control. However, under a previous government, some of these measures were removed and only partially restored later on. While we applaud the restoration of successor rights, many workers and employees in precarious areas remain excluded, and Bill 77 would remedy that. This loophole would be fixed by Bill 77, by allowing workers in all sectors to have the same basic rights enjoyed by other workers in Ontario.

Of course, the bill speaks to reinstatement pending a hearing. This is based on the notion that all of us should be considered innocent until proven guilty, but this is especially true in a workplace organizing drive, firstly, because even if a worker is reinstated in a workplace after a hearing that could involve several days or weeks or months, many workers simply can't contemplate the consequences of themselves and their families having any delay between work and pay. Secondly, and perhaps more importantly, it is the chill effect that necessarily comes about when workers see one of their colleagues, someone who they knew was supportive of a union campaign, simply disappear from the workplace.

Without this provision in Bill 77, the message is clear: If you support unionization, you put your job at risk, and that severely undermines the premise of Ontario labour law, which says that workers should have the right to freely choose to join or not join a union. Bill 77 will ensure that workers who are disciplined, discharged or discriminated against because they were exercising their legal rights during an organizing drive are immediately reinstated pending the outcome of a hearing on the merits of the discipline imposed on them.

0920

This legislation isn't breaking new ground. It isn't charting some new, radical course in labour relations; it is doing just the opposite. Bill 77 makes it possible for individual employees, particularly in sectors barely on the radar when current statutes were drafted, to realize the values that Ontario has enshrined in law but remain out of reach for thousands of men and women.

What are those values? They come from the "Purposes" of the Ontario Labour Relations Act:

"1. To facilitate collective bargaining between employers and trade unions that are the freely-designated representatives of the employees....

"3. To promote flexibility, productivity and employee involvement in the workplace.

"4. To encourage communication between employers and employees in the workplace.

"5. To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.

"6. To encourage co-operative participation of employers and trade unions in resolving workplace issues.

"7. To promote the expeditious resolution of workplace disputes."

Those provisions from our current labour law explicitly recognize the positive contribution of unions and collective bargaining to making workplaces in our province better for everyone.

Everything that is before you in Bill 77 is about making those values accessible to all workers in this province and giving them a real, unimpeded opportunity to make a choice about whether they should join a union—that is their choice, what they would want. It is fundamentally about making democracy work better for everyone.

On behalf of CUPE Ontario, we're asking the committee to support Bill 77, to send it back to the Legislature and to have it passed into law as soon as possible. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Hahn. Questions go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. Thank you, Fred, for attending committee this morning. I understand you were here last evening giving a deputation to the finance committee—

Mr. Fred Hahn: Indeed.

Mr. Taras Natyshak: —so you've been spending a lot of time here. I certainly appreciate your input to the Legislature.

From the outset, I'd like to just simply address some of the misnomers that the debate is currently taking on in this committee. This bill does not touch on card-based certification. It does not change the process of certification for an organization or for a group looking to organize their workplace. That should be set completely outside of the parameters of the discussion in this committee today.

What we are talking about is changing potentially the location to neutral and off-site voting and implementing some new measures, modernizing the measures, in terms of where workers can vote and cast their ballots. I think we all recognize that we're in a new era. We can do a lot of things with these phones these days. I could actually buy a car with this phone if I wanted to today, securely and safely over the Internet. I don't see why we shouldn't explore the option of allowing folks to certify their workplace or become part of a union with that type of technology.

Secondly, there is a large piece of this bill that is missing that New Democrats have fought for for quite some time, which would have been, could have been anti-replacement-worker legislation. That is not in here. That has been a contentious piece of legislation that was purposely not put into this bill. Therefore, these are modest reforms that we're looking at.

I want to expand on all five bullet points, but the successor rights in the contract sector—Fred, I'm wondering if you could tell us just how simple that would be to implement and how it could immediately infuse some fairness into our Labour Relations Act.

Mr. Fred Hahn: Well, I could tell you the story of workers that I'm sure you know from the area of the province that you represent. Ontarians in the Windsor area, workers for the Victorian Order of Nurses, who supplied home support services to aging populations and those who are sick and recovering at home, who provided those supports in that community for some 30 years, were replaced by a contract because of the competitive bidding process in the home care sector, introduced by a previous government. What that meant for those workers is, not only did they have to reapply for those same jobs, but many of them, if they were successful in that re-application after doing this work for almost a generation in their communities, had their wages cut in half, had no benefits and no pension. What that meant is that the quality of the service in that area suffered. What that meant is that families who ultimately rely on these workers for this kind of very intimate and important support had to be subject and continue to be subject to a rotating door of people who are paid lowly. Those workers, quite honestly, did not deserve to suffer the loss of their rights as a result of a decision of a policy change of government. Surely, when we talk about elemental fairness for all of us, and when we think, particularly, in public services about public service provision and the consistency of that provision for the public, it is essential that successor rights be applied equally and fairly for all workers.

Mr. Taras Natyshak: Thank you. We'll go to number two, interest arbitration for first contract: It seems to me that the language within the context of this provision is fair across the board; equal. An employee group can trigger arbitration as easily as the employer can. Do you want to maybe elaborate on what that does, what the ramifications of that are?

Mr. Fred Hahn: Absolutely. What is essential in collective bargaining is that the rights of both parties are equal, that people approach the discussions and the resolution of a collective agreement from an equal footing. What this provision of the bill allows is for either party, should there be a dispute in a first contract—which can be complicated, as I said. These are often parties that have not built up a history of labour relations; they haven't negotiated with one another; there may be incidents in the workplace that cause the organizing to happen that are challenging for both parties. For both parties to have equal access to first-contract arbitration that is fair and impartial, a third party professional who can assist them in coming to a collective agreement makes perfect sense not just for those workers but for the employer, for the services they provide and for our economy. This is already available in other jurisdictions. It works well, it is statistically proven and it just makes sense.

Mr. Taras Natyshak: Number three—

The Chair (Mr. Peter Tabuns): Mr. Natyshak, I'm sorry. Mr. Hahn, your sense of timing is excellent. Thank you very much for your presentation.

Mr. Fred Hahn: Thank you.

UNITE HERE, LOCAL 75

The Chair (Mr. Peter Tabuns): We have next Lambert Villaroel, UNITE HERE, Local 75. Lambert, please have a seat. You'll have 10 minutes to speak and up to five minutes of questions. Please give us your name for Hansard, and proceed.

Mr. Lambert Villaroel: My name is Lambert Villaroel.

Good morning, members of the Standing Committee on Regulations and Private Bills, and thank you for the opportunity to speak today. My name is Lambert Villaroel, and I am a cook at Sidney Smith Hall, University of Toronto, St. George campus. I am a proud member of UNITE HERE, Local 75. My union represents more than 8,000 hospitality workers across the GTA, including 2,000 food service workers like me.

I came to Canada eight years ago and I have worked at the university for the past three years. I came to Canada with great expectations for a better life. However, in a short time, my dreams and aspirations have been dashed. I had hoped that if I worked hard I could achieve the Canadian dream. I currently make $11.55 an hour, and I only get five to six hours of work a day. I struggle just to get by.

While I work at the University of Toronto, technically speaking my employer is a multinational food service company, as the university has contracted out most of its food service work.

I am here today to speak in favour of Bill 77. I would like to focus on a provision in the bill that is especially important to my union and to me personally. Extending successor rights to cover jobs like mine may well be one of the most effective things you can do to reduce poverty in this province.

It's not easy supporting yourself or your family when you work in the service sector. As I mentioned, the pay is low; many of us make minimum wage, or a little higher if we are lucky enough to be in a union. Our hours of work can be inconsistent from week to week, so even if we make a reasonable wage, we often struggle to get full-time hours. Also, competition among food service operators is fierce, and companies do everything they can to reduce their costs. Ask any of my co-workers: There are fewer of us doing more work.

However, through our union, my co-workers and I have managed to slowly and incrementally improve our working conditions with each round of contract bargaining. The problem is that, in our industry, the clients—meaning the universities, colleges or other institutions or companies—can change food service operators whenever their contract is up. These contracts typically last five years. The result is a feeling of permanent insecurity.

Every time a contract runs out, we have to find a way to keep our jobs and our union. Think about that. The next company that comes in has no obligation to recognize our union, to keep the same pay and benefit levels or even keep our jobs. It's no wonder that wages in this sector are not keeping up with inflation: We have to run in order to stand still.

0930

We spend most of our energy fighting to keep our jobs when we could be working on real contract improvement with successor rights. With successor rights, you are giving working people the tools we need to improve our lives. Without successor rights, it's going to get harder and harder to support a family on contract work, which means more and more people are going to need help just to get by.

At the University of Toronto, all we have to do is look across the street to see the difference successor rights would make in our industry. Some of my brothers and sisters in UNITE HERE, Local 75 work at the University of Toronto residence at 89 Chestnut, a university residence that includes foodservices. Unlike me, they work differently for the university. They do the exact same work for the exact same customers, but they have a higher level of job security, they have been able to focus on bargaining for fair and reasonable workplace improvements and they have secure jobs that can support a family. That's all we want—the same job stability as our brothers and sisters who work directly for the university.

For these and so many more reasons, I urge you to support Bill 77. Thank you very much for your time.

The Chair (Mr. Peter Tabuns): Thank you very much, Mr. Villaroel. Questions go to the Liberals.

Mrs. Laura Albanese: Yes. First of all, I would like to thank you for your presentation, Mr. Villaroel—I hope I'm pronouncing that right. You mentioned that you have been here in Canada for six years—

Mr. Lambert Villaroel: Eight years.

Mrs. Laura Albanese: Eight years; pardon.

Like many of us who have come from other countries, you want to fulfill your Canadian dream, and I think many of us have come here to improve our quality of life and that of our kids. That's very valuable, what you said.

It seems that the part of the bill that you are most interested in is the part about successor rights. You also made it very clear as to why you support that.

I wanted to ask you if you think that all the sectors—and I don't know if this is a question that you would be able to answer, but are all the right sectors included in the bill? There's security, cleaning, housekeeping, foodservices, homemaking. Is there any other sector that you can think of that should be included?

Mr. Lambert Villaroel: I'm here to speak about what affects me and my co-workers right now, about—

Mrs. Laura Albanese: So foodservices.

Mr. Lambert Villaroel: Yes, for the foodservices, going to negotiations. We're in negotiations. Myself and my co-workers feel very intimidated and very insecure with the transaction. I am here just to speak about the successorship. We are in fear of when the contract is changed, or if it's changed, we wouldn't have any rights, we wouldn't have a job, or anything can happen to us.

Mrs. Laura Albanese: Yes, and that gives you a lot of uncertainty. I understand that.

Are there any other underlying problems that you see with labour relations that are having a negative impact on workers in Ontario? Any others, or is this the primary one and the only specific one?

Mr. Lambert Villaroel: At present here, this is what we are interested in: successorship. This would protect us and give us job security. This is the main thing that we are concerned about: job security after working for such a long while with these companies and serving our children in the university. We are concerned about successorship, being able to stay there and keep your job.

Mrs. Laura Albanese: How long have you been working for the University of Toronto and how many times has it happened that, basically, you've been impacted by successor rights?

Mr. Lambert Villaroel: It's a matter of fear here with me right now. This can happen with us right now. It hasn't happened with me before, but I am very fearful as to my security, my children's security and my community, because if we are out of a job, things happen. You cannot maintain your children. Crimes happen. So I am here just for the successorship, to maintain my job in case it's being taken over by another company.

Mrs. Laura Albanese: Okay, I think you made that very clear. Are there any other questions from any other colleagues?

The Chair (Mr. Peter Tabuns): Mr. Coteau?

Mr. Michael Coteau: Thank you very much for your presentation. My mother was in the exact same situation, and she went through that experience with the contracts when she was employed, probably about 15 years ago, in the hospitality sector.

I have a quick question about another section of the proposed bill. It talks about voting online and other means of voting. Do you think that currently the membership at your local place would prefer voting in the workplace, or do you think that voting online or other methods using technology would benefit the organized labour group?

Mr. Lambert Villaroel: We haven't discussed that on the job. Many jobs have been to locations in the university. What I've been hearing is successorship. We are fearful of losing our jobs because of another company coming in and taking over, and displacing us. This is what my co-workers and I are concerned about right now as foodservice workers.

Mr. Michael Coteau: Thank you for coming here today. I appreciate it.

Mr. Lambert Villaroel: Thank you very much.

The Chair (Mr. Peter Tabuns): Just a second, Mr. Villaroel.

No other questions? We have about a minute and a half.

Mr. Jim McDonell: Again, thank you for coming here today. Just to touch on electronic voting, do you or

the people who work with you see any advantage to that over workplace voting? You say that you haven't talked about it, that it's not really an issue or a concern.

Mr. Lambert Villaroel: I'm not informed about that too much, so I wouldn't be able to speak on that. All our concern is on successorship, and we are hoping that the bill gets passed to give us a sense of security as workers in the food services.

Mr. Jim McDonell: I appreciate where you're coming from, but it's hard when employers don't receive contracts or go out of business. It's part of the free market. Anyway, an interesting concept.

The Chair (Mr. Peter Tabuns): We've covered our time, Mr. Villaroel. Thank you so much.

WELLESLEY INSTITUTE

The Chair (Mr. Peter Tabuns): I'll now call on Sheila Block, director of economic analysis at the Wellesley Institute. Good morning, Ms. Block. You have 10 minutes to speak and up to five minutes in questions. If you could state your name for Hansard, then we can begin.

Ms. Sheila Block: My name is Sheila Block. I'm the director of economic analysis at the Wellesley Institute. The Wellesley Institute is an independent research and policy shop. Its mandate is really to address the social determinants of health—what are sometimes called the causes of the causes of illness. We know that our health is affected by many factors outside the medical system and outside the health care system. It includes the kind of housing we live in, whether our incomes are secure, whether we face discrimination and what kind of community supports we have.

One of the most important determinants of health is both the level of income you have and the level of income inequality you're facing and that you live in. The evidence is very clear that income inequality in Canada is rising. Research that's been discussed in the media just this week from researchers at the University of British Columbia has confirmed earlier findings that tell us that we have a hollowing out of the middle of our labour force, that we have a lot of jobs and wage growth at the top of the income scale and that we have a lot of jobs and actually decreases in wages at the bottom. But what we're really losing is those jobs in the middle. That move to this kind of hourglass-shaped labour market means fewer opportunities for young people and that they'll really be denied the opportunities in the labour market that we had when we were first entering.

So we have increased income inequality and we know, and the evidence shows us, that the labour market is a major contributor to it.

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The evidence also very clearly shows us that unions increase incomes and they decrease inequality, and that that has positive health impacts. The fact that unions increase wages at the bottom and that they decrease inequality really has a positive impact on our health.

The impact of unions on health doesn't actually stop there; it doesn't stop at income inequality. Work for the World Health Organization Commission on the Social Determinants of Health showed that unionization actually has positive impacts on health through other pathways.

There are two pathways specifically. One is that by increasing income security and increasing wages, it allows workers to turn down work that is unsafe—that is, unsafe conditions—and that happens through two ways: one is improvements of working conditions, and the other way is really through the work that unions do in terms of advocating for increases in social benefits.

We know that one of the ways to both address income inequality and to increase the number of good jobs is through unionizing, and we really see that in the history of Ontario when we look at Ontario's manufacturing sector and we look at the mining sector. What happened was that through the process of unionization, jobs that were dangerous and that were poorly paid, through this process of unionizing, were transformed over time into better-paying, safer jobs.

The labour market has changed since that time of unionization in those jobs. More jobs are being created in the service sector, but the Labour Relations Act really hasn't kept up with the changes in our economy and really needs to be modernized.

To provide Ontarians of this generation with the same opportunities that we had to access the benefits of unionization, we really need to modernize the act. What this bill before you does is just take some very small, really quite modest measures towards modernization and addressing the ways that work has changed over the past 50 years.

The Labour Relations Act was written in a period of large workplaces, where you had large numbers of employees who worked full-time, who likely would work in the same workplace over their entire working life and who lived near each other, spoke the same languages and maybe went to the same bars after work, and that has really changed. Ontarians now are much more likely to be working in smaller workplaces, to be changing jobs more frequently and to be working at a number of part-time jobs.

The basic building block of a union in Ontario is the single workplace, the single physical workplace, and that's much more General Motors than it is Tim Hortons or Walmart.

Again, if we want to afford this generation the same opportunities to improve their working life, then we really need to do some modernizing of the act, and in particular, to allow employees who most need it to improve their lives, who are most marginalized and in precarious work situations and actually have the least access to that power of unionization.

I want to speak briefly to the components of the act. The first is successor rights, and the person who was here before me spoke quite eloquently to the impact of that. There is really an element of fairness in this as well, because you can see that you can have two sets of work-

ers with their employer having two different relationships to their customers. One could be in a manufacturing plant. If the manufacturing plant changed hands, the workers in that plant would continue to be represented by their union and would continue to benefit from their collective agreement that is a result of that relationship built over time. But if, in that same manufacturing plant, as the organization of work is changed, you have people who are cleaning that plant who work for a contractor, the same kinds of people working in the same kinds of plant, one would have the benefit of successor rights and one wouldn't, and really, as the economy moves and the labour market shifts so that you have more work contracted out, this is an issue of fairness in terms of two sets of workers in a very similar situation, and the only difference is the business arrangements that their employers have with their customers. It's also these sectors—in terms of cleaning, foodservice workers and security guards—in which the most marginalized of Ontarians work and in which really they need a variety of supports to raise their income, and unionization or the greater potential to unionize is one of those. This is a gap in the legislation, and to increase fairness across different sets of workers and to decrease inequality, that change should be made.

The other provisions in the act are really about modernizing the process in which employees determine whether or not they want to be represented by a union. It tends to reflect the changes in workplaces, workplaces where people are more dispersed; they're not all reporting to one place and working one or two or three standard shifts. It's really kind of taking it and acknowledging the differences in technology so that voting methods can be reformed in different ways so that people can access it in different ways, and making sure that the vote process is fair and that there's no coercion or intimidation that can happen there, and then finally, a support so that both parties in this relationship can start their relationship out in a productive manner by having that kind of support.

I think really what I want to leave with you is that income inequality that we're facing internationally, nationally and in this province is really a formidable policy challenge. It's going to require policy interventions in a number of different ways and at a number of different levels. The small changes that this bill proposes to increase access to unionization is one way that has been shown actually to be effective at reducing inequality, has no direct cost to the public purse and actually can and will enhance the health of Ontarians.

Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Block. Questions go first to the official opposition. Mr. Walker.

Mr. Bill Walker: Thank you for your presentation. I apologize for coming in late. I had another commitment, so my colleague covered me.

One of the things, I guess, certainly from my perspective, in all of these types of things, that we have to do is look at it from a balanced equation and both sides. I don't see that you—in your presentation, I didn't hear much reference to the employer side of the equation. One of the things I think we're grappling with—and we've seen incidents of it relatively recently with companies moving out of Ontario to either other jurisdictions in Canada or to the States—is the ability to pay, the ability of the employer. The balance I didn't see in your presentation is, what about the impact to the employer?

Ms. Sheila Block: The impact to the employer of these changes to the act?

Mr. Bill Walker: Well, you're suggesting higher rates, and to unionize you're going to get better rates and better working conditions. I don't think anyone in the House is going to argue with better working conditions; everybody should have the right to a safe work employment. But the rising rates from unionization may drive a company to choose that I'm going to either the States or to another jurisdiction. I didn't hear anything to kind of balance that off, the ability for the employer to absorb those increased costs.

In a hospital setting recently, I was told that one of the areas of the hospital was unionizing only for the simple fact that they had been impacted by the legislation to freeze their wages. They were going to unionize just to get the added wage. There is a cost to the public purse, and there is a cost if you're a private company to increase those wages.

If we drive businesses out of Ontario because of that, then we certainly are not necessarily moving us in the right direction.

Ms. Sheila Block: I think I can address that in a couple of ways. The first is that in any bargaining process, two parties come to an agreement. I think that unionized workers are very acutely aware that their shared interest in a company is maintaining profitability of that company. If the profitability of the company isn't maintained, the workers are out of the job, and the company can either relocate or go somewhere else.

I think it's really a kind of misunderstanding of the bargaining process if you don't assume that this is a process where there are really a great deal of mutual interests, and the mutual interests are the continued health and operation of the company. That's sort of one aspect of it.

This absolutely would have an impact on both public sector and private sector workers, but really from a public policy perspective, if you are actually transferring incomes to lower-wage workers, it has a big impact because they're more likely to spend their money in their local communities than higher-wage workers are. You're going to decrease other costs, such as the costs of increased health care and also the costs associated if somebody actually doesn't have a living wage and has to rely on social assistance.

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I think the relationships are really complex, and I also think the relationships between unions and employers are very complex and mutually supportive.

Mr. Bill Walker: The other piece that I don't see in this document, but I certainly have in some of our other

learnings to date, is that some of the unionized dues are being used for things other than collective bargaining. Where's your stance on that?

Ms. Sheila Block: I take a public health perspective of it. What I can talk to you about is the World Health Organization perspective on that, which is that the impact of unions working towards social issues, towards increasing social security and towards increasing other benefits actually has positive health impacts, and those positive health impacts result from the use of dues for those kinds of activities.

Mr. Jim McDonell: You talked about union members having, of course, a stake in the success of a company, but that doesn't happen when you're working and the contractor gets changed and the employees are staying but the contractor's gone. We talked about successor rights. Really, they have no interest, or they can have no interest, in the success of the contractor because the employer's the only person that loses out there. I just wonder about the balance in that case. Generally, if you're not successful, or your company's not successful, everybody loses. That wouldn't be the case. It would shift the rules.

Ms. Sheila Block: I think in terms of the successor rights and how that would shift, what that really would do is kind of put a floor under the competition. We know that the contractor sector is a sector where we have a lot of basic rights being violated, employment standards rights being violated, and misclassification of workers.

Making it a little bit easier to maintain your union through successor rights, I think, would address some of those violations. But clearly, if a union managed to somehow bargain an uneconomic agreement, then every successive contractor would not be successful there. Therefore, there could be a number of scenarios that would result. The person who's buying those contract services could wind up bringing it in-house. There's a whole range of things that I think would actually happen that would prevent that from happening, through the kind of market forces.

The Chair (Mr. Peter Tabuns): Mr. Walker?

Mr. Bill Walker: Again, a local firm in my riding would refute that significantly. They are a small contracting firm. They've been in business for about 38 years, I believe. The father started the business and the son has now taken it over. They are telling me that if the unionized-portion movement comes through, they'll shut down, because they cannot afford the rate.

So I would refute some of your thought processes. There may be cases where that will not be the case, as you're suggesting, but there are other cases that it definitely will have a detrimental impact. He's saying, "I'll shut the doors, because I'm not profitable."

The Chair (Mr. Peter Tabuns): And—

Ms. Sheila Block: Sorry. Is he currently unionized?

Mr. Bill Walker: No.

Ms. Sheila Block: So he's saying if—

The Chair (Mr. Peter Tabuns): Sorry, Ms. Block, we've come to the end of the 15 minutes.

Ms. Sheila Block: Okay. Thanks very much.

The Chair (Mr. Peter Tabuns): Thank you very much.

UNITED STEELWORKERS, DISTRICT 6

The Chair (Mr. Peter Tabuns): We now have United Steelworkers, District 6. I was going to say "Wayne Fraser," but I don't think you're Wayne Fraser, Brad—and Phyllis Reid. As you know by now, you have 10 minutes to speak and up to five minutes of questions. If you would introduce yourselves for Hansard and please proceed.

Mr. Brad James: I'll do so. Thanks very much, Mr. Chair. I'm Brad James. I'm replacing our director of District 6, Wayne Fraser. I'm the union's director of organizing. I'm representing the Steelworkers here and happy to be here.

I'm going to split my presentation today with my friend Phyllis Reid, who is a member of our union at Queen's University, a recently joined and new member.

Let me say that Bill 77 takes some small but very important steps toward ensuring that employees can better access and then better exercise their democratic rights, with less fear of employer reprisal. These legislative changes are modest, they're modern and they're moderate—all good Ontarian virtues—but they'll deliver real benefits to employees across Ontario without impinging in any way on the activities of responsible employers.

Before getting into the substance of Bill 77, let me turn to something that was addressed by one of the members from the Conservative Party that Bill 77 does not address, and that is the right of Ontario workers to join unions via card-based certification. Requiring representation votes as the only means of winning bargaining rights does place an undue burden on employees and does not square with the unique power relations that exist in the employer-employee relationship. Our union does advocate an eventual return to card-based certification. It's a time-tested means for employees to achieve bargaining rights, a means that existed for decades under successive Conservative governments, a model that existed here in Ontario for years, a model that exists elsewhere; and it's a model that the previous Liberal government extended to only one section of the economy, the construction sector.

But having said that, that's not what Bill 77 is about. Bill 77 focuses on key aspects of the current Labour Relations Act that would make the act more reflective of the reality of work in Ontario today and would make the rights and responsibilities in the act more tangible, more meaningful and more accessible to more Ontarians.

The bill focuses on the rights of Ontarians to make decisions about union membership and on their subsequent ability to maintain that union membership once they've chosen it. First, let me turn to the first category, which is the right of employees to make decisions about union membership. The bill's change to provide better reinstatement rights during organizing campaigns, essen-

tially extending the principle of innocence until proven guilty into the workplace during an organizing campaign, is an important change. The rational disclosure—not the early disclosure, but the rational disclosure—of employee lists and the option in certain cases, where the union asks for it, to propose neutral or off-site voting or some secure electronic voting means: These three changes are about moving toward a more democratic model, given that we currently have a vote-based representation system.

None of these changes is controversial. All of these changes mirror other key democratic aspects in our society, and none of them should be of any concern. Taken together, these changes will help to reduce some of the very rational fears that employees have about employer opposition and will repair some poor elements of the current vote system. I'm happy to get into those when we have time for questions.

Next, on the ability of employees to maintain union membership once they've chosen it, the two key aspects of the bill here are the extension of successor rights to the thousands of employees that are currently denied those rights in the contracts services sector, and secondly, providing easier access to arbitration in a first-contract situation. Taken together, those two changes will allow employees who've chosen union membership to keep it, so that it is their decision as to whether they maintain their union or not, and it is not taken from them by an employer bent on frustrating first-contract bargaining or by changes in workplace control that happen with regularity for thousands of employees in the contract services sector.

Specifically, workers in that sector are vulnerable and precarious workers working at the low end of the wage scale, and they deserve the same rights that are held by other workers in Ontario. These changes will work to increase opportunity for Ontarians to participate meaningfully in our economy. They will erode the gnawing problem of inequality in our economy. There is a minimum cost—a nominal cost—to public finance. All in all, these changes are non-controversial and positive.

My friend Phyllis Reid will speak about her experience at Queen's University in a moment, but I'll say that we are gratified, the Steelworkers are gratified, that the Legislature is turning its mind to these vital issues. We commend the committee for what we know will be thoughtful and hard work, and we look for further discussion from you on ways to pass this bill into legislation as soon as possible and make it better.

I introduce my friend Phyllis Reid from Queen's University, a new member of our union.

Ms. Phyllis Reid: Good morning. I have worked at Queen's University for 33 years. I'm a graduate studies assistant. I work with master of laws and doctor of philosophy and law students from their initial inquiry for information to their degree completion.

Over my years of service, I noticed a distinct change in the way Queen's conducted business. It became clear to me and to other loyal employees that for Queen's to remain a good employer we needed to address problems in our workplace. In 2008, we established a steering committee and commenced the lengthy campaign to unionize. Our goal was to educate our colleagues so they could make informed decisions on unionizing.

Determining our bargaining unit was a gigantic task. Queen's is a complex workplace. It is widely dispersed among dozens of different buildings across two geographically separate campuses. It is comprised of literally hundreds of offices, labs and workspaces. Some of my colleagues work in isolated labs and behind locked doors. Queen's has dozens of job titles, grade levels and work arrangements. Our campaign was long, due, in good measure, to the barriers that are present in the current version of the Ontario Labour Relations Act.

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As a newcomer to a union organizing, I was stunned to learn that the democratic right I have as an employee in the province of Ontario to engage in communication around union issues was not supported by access to a list of eligible co-workers in bargaining units. If I can run for Kingston city council and obtain a voters list so I can communicate with voters, why is it that employees who choose to unionize are prevented from gaining a list of their colleagues? The lack of such a right defies both logic and fairness.

When discussions on unionizing began, we were told by senior university management that we were not allowed to meet on campus, even on our own time. We had meeting access in one building because it operated under a different governance structure that encouraged open discussion.

On March 31, 2010, administrative and technical staff held our vote. Voter turnout was overwhelming. For a great portion of the day, lines of employees filled hallways and spilled out on sidewalks waiting to vote. They stood in line for hours. We were successful. USW Local 2010 was formed in December 2010. We have close to 1,200 members and represent the majority of non-faculty administrative and technical staff. Most of our members are women. We are close to concluding our first collective agreement. Yay! I am a proud member of United Steelworkers and we are making a difference at Queen's.

My experience taught me many things and raised many concerns. Employees deserve the opportunity to consider issues and ask questions so they can make an informed decision on unionizing. In our campaign, we were limited in our efforts to reach our colleagues because we did not know who was in the bargaining unit and where they worked. As a result, many employees may have been denied the opportunity to engage because either we or they did not know they were part of the bargaining unit. If a list of employees had been provided to us earlier in the campaign, it would have allowed a much more rational process to unfold, one in which employees would have had better access to communication with colleagues about the issues around our decision to form a union.

If Queen's had been required to provide a list of employees earlier in the campaign, that might have

bridged the gap of fear that existed during our campaign. Many of my colleagues who are highly skilled women and men—

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Phyllis Reid: —who have given decades of service to Queen's were afraid to talk with us about unionizing. They feared retaliation from supervisory levels at the university. Based on my experience with our campaign, I can only imagine what it must be like in the private sector with employers who are less scrupulous and less fair-minded than Queen's and where employees fear even more acutely for their job security.

I believe it is time to change the fundamental imbalance that exists in the Labour Relations Act. As legislators, you have the power to make positive change. I sincerely hope that you do so.

Thank you for an opportunity to address this important issue.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Chair. Thank you, Brad and Phyllis, for appearing before us today. Brad, during the context of your presentation, you mentioned that you wanted to elaborate on a remedy—on potential remedies—for the overall voting process that currently exists. I want to give you the opportunity to do that.

Mr. Brad James: Certainly. Currently, the voting process that exists, while people from a less-than-fully-informed point of view might think that a vote in the workplace accords with the basic traditions that take place when we vote for our federal or municipal or provincial representatives, it's really nothing of the sort. I think an earlier deputant or perhaps one of the committee members referred to the location of the vote, so let's talk about that for a second.

The location of the vote is most often in the workplace. Very few workplaces have a space that is both suitable and proper for the taking of a proper secret ballot and, once again, it is not on neutral territory. The proposal in Bill 77 would be that, at the union's option and if it is available, voting be considered at a neutral or off-site location, again to make the voting process more akin to the democratic process that placed all of you on this committee and in this House.

Let me talk a little bit about access and communication in the workplace. Even in a workplace like Queen's University, which is a place of free inquiry, openness, transparency and so on—or so one would think—employees found it extremely difficult to engage in effective communication about unionizing. They were prevented from meeting anywhere on campus, even on their own time. They could not book rooms to do so; they could not meet on campus. We eventually found a place on campus where we were allowed one small corner of the campus to engage in that communication.

Queen's, though, is a fair-minded and scrupulous employer and observed the law. As Phyllis said, you can only imagine what it's like for employees in workplaces where the employer firmly, aggressively and strongly opposes the union and may, as the member here said, make indications that if their employees join the union, they will close. Mr. Walker, I believe you referred to an employer that took that position.

The ability of workers to engage in discussion and make decisions about whether to join or not join the union is severely constricted in the workplace. Unions do not have any access to the workplace. People who choose to lead the campaign and engage in a democratic discussion about unionization such as Phyllis did are in a fundamental position of imbalance when compared to the capacity of the employer to communicate and conduct its campaign against unionization.

We do think that the vote process currently can't really be compared to the vote process under which you folks were elected. These three changes—the provision of a voters list so that employees can understand with whom they should communicate is absolutely vital to taking some of the undemocratic edges off of this process; again, the protection of workers who engage in union organizing, to be able to do so without fear or reprisal, without fear of being fired, and if they are fired, they have a chance to have their day in court and be returned to the workplace under an innocent-until-proven-guilty status is absolutely vital; and the option, again, to make the vote more akin to the process that placed you in the positions you're in, to have the vote off-site—all three of these changes will take some of the undemocratic nature out of the current union representation process.

Again, we still think there are many challenges, other things that, in terms of equity of information, need to be fixed, but we think these changes will make the vote slightly more democratic.

The Chair (Mr. Peter Tabuns): Mr. Natyshak.

Mr. Taras Natyshak: I've got a little bit more time, Chair? Thanks.

I'll go to the third provision within the proposed bill: the small changes to reinstatement during an organizing campaign. I think we should all be working under the premise that the ability to organize your workplace is here. It's a fundamental aspect of our society, it's enshrined, we have it, it is a right, and as long as there are businesses that operate and corporations that operate in Canada or in the province, there will be unions to represent the groups of workers. Any other debate is philosophical and really doesn't add to the constructive nature that should be of this committee.

I just want to talk about the basic, fundamental aspect of not having the fear of reprisal during an organizing drive. How important is that to the future of the progressive nature of organized workplaces?

Mr. Brad James: We take the position that union organizing should be out in the open, that employees should be able to discuss it on their own work time and not take time away from their work. They're there to do a job—but on their own time to be able to discuss it. It's a fundamental right; it's guaranteed in the act.

The fear of reprisal is strong. Polls in Ontario and across Canada consistently show that, when non-union workers are asked if they want to join a union and then they are asked if they want to join a union if they could be guaranteed that there would be no reprisal from their employer if they did so, support for joining a union goes up on average between 10 and 12 percentage points. Workers have a well-founded, healthy and well-understood fear that some employers—not all—will discriminate against them if they engage in their democratic choice. Everyone knows someone who knows someone whom this has happened to.

The Chair (Mr. Peter Tabuns): Mr. James, I'm afraid we've come to the end of the 15 minutes.

Mr. Brad James: Thanks very much.

The Chair (Mr. Peter Tabuns): We have completed our business for the morning. We stand recessed until 2 p.m.

The committee recessed from 1010 to 1400.

ONTARIO FEDERATION OF LABOUR

The Chair (Mr. Peter Tabuns): The Standing Committee on Regulations and Private Bills will now come to order. We are here for public hearings—a continuation from this morning—on Bill 77, An Act to amend the Labour Relations Act, 1995, with respect to enhancing fairness for employees.

Our first speaker this afternoon is Nancy Hutchison, secretary-treasurer, Ontario Federation of Labour. Ms. Hutchison, if you could have a seat here.

Ms. Nancy Hutchison: Thank you.

The Chair (Mr. Peter Tabuns): You'll have 10 minutes to speak, and then we'll have five minutes for questions. State your name and please proceed.

Ms. Nancy Hutchison: My name is Nancy Hutchison. I am the secretary-treasurer of the Ontario Federation of Labour, which unites about one million working people in the province of Ontario. I have with me my colleague Pam Frache from our Ontario Federation of Labour as well.

Many employment standards and labour laws exist today because working men and women joined forces to effect positive change. Historically, for literally hundreds of thousands of workers in Ontario, formalizing this co-operative action through membership in a union has been a necessary precondition for effecting the statutory change that made life better, not only for employees in the workplace but for communities and the economy as a whole. This is why the freedom of association and the right to join unions are the cornerstone to any modern democratic society.

Evidence shows that the labour market has changed over the past 20 years, and the proportion of workers who do not work in large, single-site workplaces any longer is growing. Less than two thirds of today's workers are employed in standard work. Unfortunately, newcomers, workers of colour and women are overrepresented in precarious, temporary or low-wage work. Bill 77, the Fairness for Employees Act, proposes five key measures to facilitate workers' ability to exercise their rights under the law in today's changed workplace situations.

(1) Early disclosure of employee lists: As the Labour Relations Act currently stands, when workers want to bargain collectively, they must work hard to determine who else in their workplaces should be involved in these discussions. Under existing legislation, such lists are provided only two days before the vote. Bill 77 proposes earlier disclosure, with enough time to allow employees to communicate with each other to better determine the outcome.

As it stands, studies show that employers who learn their employees are considering unionizing intervene actively to dissuade them. Workers can be targeted merely for discussing issues with their co-workers. This concern is real. According to Osgoode Hall Law School professor Sara Slinn, a survey of managers at Canadian workplaces where union organizing had recently occurred found that 94% used anti-union tactics, with 12% admitting to using what they believed to be illegal, unfair labour practices to discourage their employees from unionizing.

We believe that communication should be facilitated. For instance, in municipal elections, voter lists, including names, addresses and the school board they support, are published in advance. Any legitimate candidate may request the relevant voters' lists so that she has ample time to engage voters in a meaningful dialogue during the provincial election. The candidate, having filed and received official acceptance of the appropriate nomination papers and fees, may request and receive access to the voters' list without a list of nominators. Of course, candidates are bound by all the relevant legislation, including the Municipal Elections Act and the Freedom of Information and Protection of Privacy Act.

Provincially, if a candidate is running in a registered political party, then a mere 25 signatures of the many thousands who live in that electoral district is a sufficient threshold for the release of an appropriate voters' list for that riding. Federally, a candidate must be nominated by between 50 and 100 eligible voters, with the lower threshold applying to larger or rural geographical areas as recognition of the challenges associated with meeting and communicating with electors over a large, geographically spread-out area.

By contrast, Bill 77 offers much more of a modest proposal, establishing a very high threshold of 20% of employees who have expressed a desire to organize, and ensuring that any employee list would be disclosed to the union only via the Ontario Labour Relations Board. Of course, all such disclosure would be in keeping with existing legislation regarding freedom of information and protection of privacy.

(2) Reinstatement pending the outcome of a hearing: When a person who was known to support collective bargaining disappears from a workplace, there is a chill that is very obvious on the other workers inside and outside the workplace. Protection under the law cannot

be delayed in these circumstances. For many workers, merely the suggestion of reprisals such as reduced hours or termination is enough to undermine their confidence in taking action. Few people today, in whatever occupation they hold, can afford to lose even one paycheque or engage in costly and time-consuming legal disputes.

Bill 77 makes a modest proposal that workers who are disciplined, discharged or discriminated against because they were exercising their rights under the Labour Relations Act during an organizing drive be immediately reinstated to their original terms and conditions pending the outcome of a hearing on the merits of the discipline imposed on such workers, in keeping with the basic principles of law that presume innocence. This measure is particularly important for the growing number of part-time workers who may not be terminated but who may also have their hours reduced and other reprisals threatened.

(3) Neutral and off-site voting, including telephone and electronic voting: Under existing legislation, a representation vote is required of workers before becoming a formally certified bargaining unit. Proponents of union certification via representation votes place significant emphasis on the notion of a secret ballot as imagined in the liberal democratic election process. However, in municipal, provincial or federal elections, voting booths are situated in convenient sites in neutral locations and are not controlled by one particular candidate.

By contrast, the majority of votes on union representation take place in the workplace that is, by definition, controlled solely by the employer. In smaller workplaces, it is quite possible for employers to deduce, or believe themselves to have deduced, who is sympathetic to collective bargaining and who is not, and treat such employees accordingly. This leads to perceived exposure and increased vulnerability to the workers. Bill 77 seeks to mitigate these inherent biases in the voting procedures.

(4) Interest arbitration for a first contract: Although existing legislation provides for the settlement of a first contract through a process of arbitration, the threshold for accessing this route is still too high, and workers can find themselves locked out or on strike because the employer has fulfilled only the most minimal technical requirements of the law and not complied with the spirit of it, which is to bargain fairly and in good faith.

Bill 77 proposes a measure that exists in other jurisdictions where either party may apply for arbitration if, after a set period of time, a collective agreement has not been settled.

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Nancy Hutchison: This is a measure that equally protects employers and employees from bargaining tactics that do not comply with the spirit of good-faith bargaining.

(5) Successor rights for the contract services sector: Currently, legislation provides successor rights when a business is sold or transferred. Since the 1950s, Ontario legislation has recognized that employees who have democratically decided to form a union should not lose their collective bargaining rights, and employers should not be able to circumvent their obligations.

I'm going right to the last page, Mr. Chairman, just to make sure I get in the most important points.

The loophole that allows contract service workers to lose their modest improvements in wages and working conditions to a non-union competitor that underpays its employees is a legislative gap that must be corrected. Simply put, the Labour Relations Act must be modernized to extend fairness to the growing number of workers employed in the contract services sector. In 2003, Premier Dalton McGuinty made an important promise to public sector employees, stating that "public employees should have the same rights as employees in the private sector, and, as Premier, I will restore successor rights for Ontario government employees."

In 2007—

The Chair (Mr. Peter Tabuns): Thank you.

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Ms. Nancy Hutchison: In conclusion, Bill 77, the Fairness for Employees Act, offers modest but necessary steps to modernize the Labour Relations Act—

The Chair (Mr. Peter Tabuns): Thank you, Ms. Hutchison. I'm afraid your time is up.

Ms. Nancy Hutchison: —and we urge all to support the bill. Thank you.

The Chair (Mr. Peter Tabuns): Questions go to the Liberals.

Ms. Tracy MacCharles: I believe Mr. Coteau has a question for the government.

Mr. Michael Coteau: I have a couple of quick questions. Thank you very much for a great presentation, and thank you for the hard copy. It's good information.

Can you explain—and I know you briefly talked about it. What is the current process for an organized labour group to go in and actually connect with the employee prior to a vote to see if they would take on a union or not? What is the current practice now?

Ms. Nancy Hutchison: I could just start it and then I'll refer it to my colleague Pam. What happens now is that there would be what we would hope would be an inside committee. Of course, the bigger unions—if it was the Steelworkers, for example, or the United Food and Commercial Workers, they do not have access to the property as national or district representatives, so we solely depend on the workers on the inside, which we would call an inside committee. Those are the very brave non-union workers who are the ones who have stepped up, so to speak, to be able to communicate and send our message as unionized workers to the non-union workers in that workplace.

We don't have access to the workplace—

Mr. Michael Coteau: Or to the list, right?

Ms. Nancy Hutchison: —or to the list.

Mr. Michael Coteau: So by not having access to the current list, would you say that there are 10%, 20% that you probably don't get to? Has there been any study on having a list versus not having a list when it comes to connecting and the outreach prior to a vote?

Ms. Nancy Hutchison: Well, because we have never had access to the list—we would be happy to do a study after we get the lists through this bill, hopefully, Mr. Chairman, but I don't think there have been any studies. Maybe Pam knows of some.

Ms. Pam Frache: I'm not aware of any particular studies. The biggest issue, I think, really is facilitating communication, because lots of times, especially in workplaces where shifts are irregular, co-workers don't know each other. It's hard to imagine for people who work in standard jobs, where you work beside the same person day in and day out, but in many workplaces, you simply don't, and the employees there don't necessarily even know.

Getting the list earlier is really about facilitating communication between the employees so that they actually can discuss workplace issues.

Ms. Nancy Hutchison: If I could just add one more point, in today's world and working world, there are a lot more fly-in situations. There are a lot more remote working places. I'm from the mining sector, and today's mining world is all fly-in camps. You have one entire shift coming off after three weeks of work. If we're lucky, they may see each other in an airport somewhere, but predominantly not. They're at home, a shift is coming in and the bed is still warm; the next shift is using the same bed, and the shift is coming in. So they don't even see each other.

Mr. Michael Coteau: Do you have any questions?

Ms. Tracy MacCharles: Go ahead.

Mr. Michael Coteau: We've heard some comments around moving forward and embracing technology for voting. One could argue that digital voting systems—telephone, computers, even by text or email, phone—would open up access and be more equitable. But one could also argue that some people would prefer the typical or the current way of voting, just because some people may not be digitally savvy. Would it be a hybrid type of model of both different approaches in order to—is that the type of approach your group would support?

Ms. Nancy Hutchison: Okay, well, Pam, if you'd like to—

Ms. Pam Frache: Sure.

Ms. Nancy Hutchison: Then I will make a couple of comments.

Ms. Pam Frache: I think the spirit of the proposed bill is to allow the employees themselves to determine what mechanism of voting is best and that there should be a wide range of options. For lots of people, access to computers and so forth is not actually particularly viable. We know that lots of people don't have computers at home and so forth, so that may not be appropriate in those cases.

But I think the purpose of the legislation is to make sure that people have broad legal access to a range of voting mechanisms that will actually facilitate participation, preserve neutrality and actually provide better outcomes in terms of the will of the employees.

Ms. Nancy Hutchison: Just to further comment on that, maybe in cases where English is the second language—as Pam pointed out, I know my parents, for example, aren't online, don't have computers. With the working age now extending past 65, we're dealing in many cases with vulnerable workers who are seniors today. So the choice really should be there.

The Chair (Mr. Peter Tabuns): Ms. Hutchison, thank you very much for your presentation.

Mr. Michael Coteau: Thank you so much. I appreciate it.

TORONTO AND YORK REGION LABOUR COUNCIL

The Chair (Mr. Peter Tabuns): I now call on John Cartwright, president of the Toronto and York Region Labour Council. Mr. Cartwright, you have 10 minutes for your presentation, and up to five minutes have been allotted for questions from committee members. If you could state your name and please begin.

Mr. John Cartwright: John Cartwright, president of the Toronto and York Region Labour Council.

I want to start my presentation by drawing the attention of the committee to the map on the back of the document. This was produced by Professor David Hulchanski for the Cities Centre at the University of Toronto about three years ago, and it shows the change of real income of families in Toronto over the course of 25 years. The red is neighbourhoods where real incomes of families have dropped more than 20%, the blue is where they've increased, and the white is where they've stayed the same. If that map was done today, you'd see much more of the dark red colouring in those neighbourhoods.

The reason I'm drawing your attention to that is because fundamentally what we're talking about today is income inequality and poverty and whether or not this government plans to do something about it for real, because we've seen tremendous growth of income inequality in the last number of years, particularly since the financial meltdown, but also before then as manufacturing jobs were outsourced, as service sector jobs became more and more the reality for new Canadians and as employers have taken a much tougher stand against people trying to have their rights at work. So our council says that Bill 77 is an important but small piece of tackling the issues. Really, governments need to recognize that, in this day's economy, people need governments on their side to balance the incredible power of multinational corporations and employers growing in concentration of wealth and power.

Back in 2004, I appeared before a similar committee at this House to talk about what was going on in the workplace. We did a series of community forums and created this book of shame, which you should also have with you. It takes stories of treatment of non-union workers in their workplaces, around health and safety, around unfair treatment, around being cheated for wages, around when they try and organize a union. It tells some horror stories that we certainly think that no sitting politician, no matter what your political stripe, should feel is appropriate for our province.

I've got to tell you that as we are going to start doing a series of town hall forums this summer, we know that these stories are all continuing in our neighbourhoods. In fact, the most recent study by the Metcalf Foundation talking about the spread of poverty wages looked not just at the city of Toronto but the GTA and shows that in Mississauga, Brampton, Durham and York region, the increase in poverty wage is much higher, in fact, than in the city of Toronto. We've got to do something about it.

We know that unions are an essential solution, that industrial jobs were poverty jobs back in the 1930s. It doesn't matter if it was steel or auto or rubber or paper; those were poverty jobs until unions came. We know that in the residential industry of construction, those were poverty jobs in the 1950s when immigrant Italians were exploited, and it wasn't until they got unions that they got out of that. We know that front-line workers in health care and social services—those were poverty jobs until they were able to get a collective voice at work, so that's crucial.

A number of people that have been here before and will come after talk about the fear that embraces the workplace when somebody wants to say, "Yeah, let's exercise our rights and join a union." I've been through that as a non-union woodworker trying to organize a union in a workplace and watched grown men literally trembling with fear at the idea that the boss might discover that they've signed that union card—trembling with fear. I've heard time and time and time again about people being fired and reprised, and more and more now, part-time workers having their hours changed so that it's clear that they've created a career-destroying move by being a voice saying, "I want my democratic rights at work." That is part of what Bill 77 gets at.

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The workplace is never neutral. We actually give up almost all of our civil rights when we walk through that door. We give up our right to free expression; we give up our right to freedom of assembly; we give up our right to write freely about what we want. If somebody was to say, "Well, a vote is a democratic thing"—it's like having a vote in some of those tinpot dictatorships where the governing party controls everything, including the lists, including the location, including whether or not workers for the opposing party are removed from the campaign arbitrarily. That's why things have to get fixed.

You heard earlier today about successor rights from a young man who works in the foodservice sector. Let me tell you about our experience in cleaning. You also heard from CUPE 79. We've been involved in the Justice and Dignity for Cleaners campaign, and we know what it means when somebody says, "Let's outsource jobs and take them from a living wage to poverty wages," because we also deal with contract cleaners and we see what happens when people are earning $10.25. We see what happens when people like Impact Cleaning violate the law by misclassifying workers and abusing undocumented workers, who are paid less than the minimum wage—no WSIB, no employer health tax, no taxes deducted at source. Something has to be done to make sure that people who break the laws don't undermine fair employers who are trying to pay an honest day's wage for an honest day's work. That's why successor rights are so crucial in the contract sector.

In the 1990s, there was a brief period of time when that was in place. It wasn't there for home care workers, but we didn't have the vicious home-care tendering system in place in the 1990s that we do today. You heard about Victorian Order of Nurses, Red Cross and other long-standing community groups that provide home care, that have lost those contracts to for-profit companies paying substandard wages, many of them from the States. That has got to be dealt with by this government.

The right to a first contract: Of course, if you get a union and then the employer, frustrated at the process, effectively says, "I refuse to bargain in good faith," then it's impossible to create a long-term relationship.

I come out of the construction industry. We have employers large and small. We have the most productive construction workforce in North America because we've built a partnership between labour and management around training, around apprenticeship, around upgrading and, most of all, around respect. You can't have a healthy collective bargaining relationship in place if employers say, "I'm going to frustrate the interest of my employees to at least have a first contract to set the new stage." We've got to have a balance in our economy.

I'm going to leave you with this thought: There are people today in greater Toronto, in the industrial heartland of Canada, working in the automotive industry, that used to be the standard for the middle income that everybody aspired to. The average industrial wage was set as what all of our statisticians said is how we should compare ourselves. There are people working today in the automotive industry—for multi-billion-dollar companies—for $11 an hour. You think you can raise a family on $11 an hour? Of course you can't, not with the cost of living here in greater Toronto. I'll tell you, most of those people are new Canadians—not all, but most.

When my parents were lucky enough to come to this country in the 1950s, you could move into a decent job and know that you would be part of the so-called middle class—industrial, manufacturing, construction. Unionization was part and parcel of that deal. One of the reasons why they're seeing such an increase in the racialization of poverty is because newcomers today don't have access to decent jobs with decent wages and benefits. More and more of the jobs that are available are in the service sector, and more and more of them are in contract, short-term, temp agency jobs. That's the reality.

If this government wants to do something about that, they are going to have to change the law, not just on Bill 77 but affecting things like temp agencies and contract work and their right to organize in unions, that even go further than this. Otherwise, you are saying that the next generations of Ontarians will have far less than those of us in this room who are my age, and that particularly newcomers and their kids will be consigned to more and

more poverty-wage jobs. That's not the kind of Ontario that I think anybody in this room says they believe in, but you've got to walk the walk if you're going to make that true for the future. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Mr. Cartwright. Questions to the official opposition: Mr. McDonell.

Mr. Jim McDonell: Thank you for coming today. I'm just not understanding the resistance to going to the secret ballot when our whole democratic country is based on that. There's no question, at least in my mind. I've seen electronic balloting. It's open to abuse; it's open to coercion. I'm just wondering where is the take on it that that is not considered, really, in allowing employees to express their will through secret ballot,.

Mr. John Cartwright: First of all, the issue of voting or not voting is not in this bill, as you very well know, but you've got other things you're doing here.

Mr. Jim McDonell: Well, you are talking about going to electronic voting.

Mr. John Cartwright: Oh, electronic voting, sorry. People pay their bank bills electronically. They do all kinds of things electronically. Medical information is moved back and forth electronically. Our society has come to a point where people are secure that incredibly important information can be transmitted electronically, and more and more systems are agreeing to various forms of voting.

Mr. Jim McDonell: That's not the question. My question, really, is how you guarantee that it's any more—

Mr. John Cartwright: Well, in the same way the bank guarantees that if you go on electronically and take money out of your account, it's not somebody else doing it; the same way that—

Mr. Jim McDonell: That's not the question. The question is, how does that guarantee anybody's rights to be more than a secret ballot, where you're actually able to stand behind a barrier, put your X down and file it? I mean, there's no question. Where I'm on my PC, I don't know who's around me. The employer could say, "Look, I want you to take this ballot and I want you to vote right now, and I'm going to watch." Those are things we don't know.

When it comes to a supervised vote where you're guaranteed that you're out of sight and you're allowed to exercise your vote—I just don't see it. We've had electronic balloting on the municipal side for some time, and I've heard of numerous cases where people have complained that it's open to abuse, and this is a very secure system, over your computer, over your telephone, cards are mailed out—

Mr. John Cartwright: I think the reason is because, as you've heard before, people are more and more working on shifts and in multiple locations, and it's harder and harder for people, especially with parental responsibilities and often working two and three jobs, to say, "Yes, I'm going to be able to get to some location at one particular time." Providing ease of people to vote, particularly in a more and more electronically savvy generation, is important.

But I think the more important principle we're talking about here is that people have to be able to have access to gain a collective voice at work. They have to be able to more freely join a union without fear, without intimidation, and that's not the reality in today's society. And as we're seeing the immense use of employer power, like Walmart, "You join a union, and we're going to shut your store down," or companies like Caterpillar, "You take a 50% cut, or we're going to move out of this place," that sends chills through everybody who is even imagining that they should have a right.

So the question is, how do we start to deal with inequality? You can only do that if you tackle the huge changes in our economy and the terrible things that have happened to working people, and you say that new Canadians are going to have the right to have a collective voice, that you recognize what all economists say, that unions are really the main way that people move out of poverty jobs, as a broad classification. In fact, one of the old expressions was, "Unions are the best anti-poverty program for working families." That's what we've got to say. How do we ensure that people have more of those rights, no matter where they come from?

When we look at this next generation, CEOs in this country have said to the next generation, "You're worth less. You have less value than people of my generation." We've got to turn that around, or we'll have growing extremes of poverty in this country.

The Chair (Mr. Peter Tabuns): Mr. Walker, you have a brief moment, about a minute.

Mr. Bill Walker: Well, that certainly limits me. We're both—I'm new and Taras is new, and a lot of this is just learning on the fly here, so most of my questions are points of clarification.

One of the things I found interesting with your math, and it is a point of clarification, is it shows the declining wages.

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Mr. John Cartwright: Yes.

Mr. Bill Walker: One of the concerns—and I'm trying to figure it out—is things like the variables that have also changed over that period of time, such as increasing taxes, such as increasing costs for things like energy. We're going up 46% in our energy. A company, at the end of the day, has to make money, or they're not going to be here, and there won't be any employees. Are those factored in when you use that type of a data point to show us?

Mr. John Cartwright: This, of course, is an income map, and what we do know is that in the last number of years, particularly since 1995, taxes have been shifted off of corporations and put onto the backs of homeowners and low-income earners. There have been numerous studies done to show how that has happened. In fact, even in the last few years in this jurisdiction, $2 billion of corporate tax cuts every year were taken out of the public purse, and that means older people are now being asked

to pay higher user fees, and there is downloading to municipalities and to school boards. So they're getting less services as businesses get away with paying less taxes.

The Chair (Mr. Peter Tabuns): Mr. Cartwright, thank you for your presentation.

WORKERS' ACTION CENTRE

The Chair (Mr. Peter Tabuns): I will now call on Sonia Singh from the Workers' Action Centre. Sonia, you have up to 10 minutes and—as you know the routine—after that, five minutes of questions. If you'd give us your name for Hansard and please begin.

Ms. Sonia Singh: Thank you.

Interjection.

The Chair (Mr. Peter Tabuns): No material.

Mr. Bill Walker: No? Thank you.

Ms. Sonia Singh: My name is Sonia Singh, and I'm an organizer with the Workers' Action Centre. I want to thank the members of the standing committee for hearing our deputation today and just acknowledge my colleague Marcia Gillespie, who's joining me.

The Workers' Action Centre is a worker-based centre that is located in Toronto. We run phone lines, and we work on the front lines supporting workers who have faced workers' rights violations who do not have union protection. Every day, we're hearing the kinds of issues and concerns that you've heard from many of the other deputants today from across the GTA.

The people who we get calls from, our membership, are working in precarious jobs. As you've heard from many others, these kinds of precarious jobs—part-time, temporary, low-wage work—which have been increasing gradually over the last year, are now becoming the standard, with more than one third of jobs in Ontario falling into this definition of precarious or non-standard work. We're here today to speak in support of Bill 77 because we feel that this bill is a step in the right direction to building a voice at work and to expanding protection for workers who fall in this category of precarious jobs.

I want to tell you about the people who we work with at the Workers' Action Centre, people who are working hard to support themselves and their families, the majority of whom are women in precarious jobs. More than half of the people in precarious work are people of colour, and a disproportionate number are newcomers to Canada.

These are not people who are working part-time jobs by choice. The trend has been for more work and more and more jobs that have been created to be part-time jobs that pay less and that essentially offer no job security. Under our current minimum wage, even when people are working full-time hours, they're still earning an income that puts them below the poverty line.

These people, our members of the Workers' Action Centre and others across Ontario, are doing the hardest and most necessary jobs in our society. They are keeping office towers clean, they're preparing and serving food, they're providing security, they're looking after families, and they're manufacturing goods. They are doing critical jobs that we need in our economy.

As you might be able to imagine, our members, many of the people that we work with, are very stressed out. They, and also the one third or more of Ontarians working in these jobs, are working harder and harder and earning less and less—often in unsafe conditions and often not knowing if they are even going to get paid, never mind whether they're going to have a job next month or even next week. Despite this growth in precarious work, our labour laws have not caught up and are still based on an outdated model of a standard employment relationship developed over 50 years ago. We're seeing companies take advantage of these gaps in the law and use new strategies to move work outside of protection—whether that's contracting out, using temporary agencies, misclassifying people as self-employed—so that we're seeing conditions deteriorate across entire industries.

I want to tell you about one of our members, Lilia, who contacted the Workers' Action Centre after she was paid less than minimum wage for over six months, working for a cleaning company. She was paid less than minimum wage because she was classified as self-employed, even though she went to a job every day, followed the instructions of a boss, followed the hours she was given and used the tools of that employer, she was called self-employed, that she had her own company.

She took on this company. She went to the Ministry of Labour. She fought back and she won her wages. But what about the other cleaners in that company, in other companies around the city, who may not have that opportunity to speak out?

We know that people, by working together, are able to improve working conditions, whether it's on an individual basis to make a complaint, with support from an organization, or by coming together. That's why we have a minimum wage. That's why we have basic labour standards. Our members join organizations like ours and do their best to meet with other workers to discuss their working conditions, to seek improvements and ways to make change. We've seen successes; we've seen changes as a result of this organizing.

One of the examples is changes that were made to provide more protection for temp agency workers. This is an example of why workers need to be able to get together to talk about the conditions they face, without fear of reprisal, and to be able to organize for change, and that's why we're supporting Bill 77.

This bill would modernize the Labour Relations Act, which was written in a time of large workplaces, one work location, direct employment relationships and long-term employment. By contrast, today's service sector—Lilia's boss making up one of the critical parts of that, which makes up some 53% of the labour market—is characterized by low wages, low rates of unionization, job instability, multi-location work and locations where people are separated from each other, smaller workplaces and more contracting-out. In this new labour market,

workers are more likely to experience violations of their legal rights to health and safety and to minimum employment standards compared to unionized workers.

Bill 77 provides some necessary, if modest, adjustments to reflect this disturbing trend towards low-paid, part-time temporary work by making it safer for workers to organize and unionize.

I know we've been hearing about the different amendments. I'll just review them very quickly and then speak more specifically about the provisions around successor rights.

Bill 77 amendments include making sure that representation votes, once a union applies for certification as a bargaining unit, be held at a neutral site, which could be in or near a workplace or could involve representation votes conducted electronically or by phone, as we've been discussing.

To ensure access, the voting location should be convenient, even among a workforce that may be geographically dispersed—and that ballots are cast in as neutral a way as possible, to ensure maximum participation, to truly reflect workers well.

Bill 77 ensures that workers whose jobs are terminated or whose work hours are changed during an organizing campaign are reinstated to their jobs and previous terms of work pending a hearing, ensuring that they are considered innocent until proven guilty and that employers cannot just fire a worker for exercising his or her democratic right to organize or to support a union or union drive.

Just to make sure I can speak about successor rights, I won't speak about some of the other changes, as my colleagues at Parkdale Community Legal Services will address that shortly. I want to talk about the successor rights provisions. These provisions would ensure that successor rights for the contract service sector means that those employees—security guards, foodservice workers and cleaners—could have the same successor rights as other workers in Ontario. This provision would make a huge difference to the lives of many workers that we work with.

I want to share another example of a group of workers who contacted us at the Workers' Action Centre. They were working for a private security company at a public institution. They had worked in these jobs for over 20 years, but every few years, that company would switch and the contract would go to a new company. So where they started in a unionized job initially, that job soon became a non-unionized job as the contract switched every few years. Not only that, not only losing the protection of a union, but also, every time the company switched, small changes in their wages and working conditions would occur, to the degree that after 20 years, this group of workers was fired. Despite the fact that they had been there for so long, working in one location, working in a public institution and not choosing to change employers, they had lost their jobs. They had no job security and no guarantee that the conditions that they had signed up for at the beginning of their employment would continue.

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We support Bill 77 because we believe that this would bring in a small but very necessary change to better protect Ontario workers. We recommend, however, that the bill be amended to include all contract services provided directly or indirectly by or to a building owner, management or occupant. This would ensure that other types of building contract services, such as, for example, parking lot services or other services that don't currently fall under this neglected category but yet, at some time in the future—

The Chair (Mr. Peter Tabuns): You have one minute left.

Ms. Sonia Singh: —could be part of a building service as employers look for new ways to reorganize work to bypass regulatory protections—essentially, we believe that this protection should be expansive in scope rather than limited. Adding on that, we feel that these kinds of amendments and extensions of successor rights should also be included and extended to the Employment Standards Act in this sector, as was initially proposed under Bill 40.

Just to close, we are facing a crisis in Ontario. We are facing restructuring of our economy that is pushing more and more workers into low-wage, precarious jobs. The proposals that are before you today, the amendments to the Ontario Labour Relations Act, are very modest but they will have a significant impact for workers in low-wage and precarious work. We're here today to ask you to stand with workers in Ontario and to support this bill. Thank you.

The Chair (Mr. Peter Tabuns): Thank you, Ms. Singh. Questions are to the third party. Mr. Natyshak?

Mr. Taras Natyshak: Thank you, Chair. Thank you, Sonia and Marcia, for your deputation today. I am a member and actually a board director of our local chapter of the Windsor Workers' Action Centre, so I'm very familiar with the work that you do. What's interesting about our centre—Windsor being, you know, a labour type of town—is that we don't typically get any calls from unionized workers at the Workers' Action Centre. That's because their unions are capable of dealing with any workplace issues and, typically, those are ironed out through collective agreements. What we do find is a massive amount of calls coming in from workers who are in temporary working conditions, precarious work. There is a crisis in companies in our area that use the 89-day rotation as a revolving door, where they will take in temporary workers and lay them off at the 89-day mark. It has obviously created a crisis in our area, where we have massive unemployment—the highest in the region.

Also, over the years—I would say, over the last 15 years at least—we've seen declining rates of unionization in Ontario and Canada. I'm wondering if you would relate those declining rates in organized workplaces to increasing rates of income inequality. Your thoughts on that?

Ms. Sonia Singh: I think there's no question that there's a direct link. We know that one of the best ways to increase workers' wages is to organize a union. Study

after study or stat after stat will show what the benefit of being in an organized workplace with a union is, not only around income but also around having job security and a way to file a grievance.

Those security guards, who I described in that example, had they still been in an unionized workplace, would have been able to file a grievance and would have had some kind of protection against those kinds of changes in their working conditions and, ultimately, the fact that they were fired without any reason or cause. Certainly, in that specific example, their wages—they had no increases year after year. I think that's something that we know at the Workers' Action Centre: The majority of people who contact our centre are working at the minimum wage. Their wage only goes up when there is an increase in the minimum wage. The minimum wage has been frozen for two years. It brings people at least 10% below the poverty line, so I think having access into the ability to organize a union, having doors open, getting rid of some of those barriers and providing ways for people to have ways to come together and organize when there is that majority support is critical in terms of bringing workers out of poverty and raising standards for the entire workforce in Ontario.

Mr. Taras Natyshak: Thank you. One of the aspects of Bill 77 involves increasing accessibility to the voting process in terms of organizing a workplace. I come from the construction sector, which has had card-based certification exclusively since, I believe, 2004. Prior to that, in the mid-1990s, we had card cert in Ontario. It was one of the mechanisms for me, as a 20-year-old, to quickly go from my first working job in the construction industry to being able to pay for university, albeit going to university part-time, because I was making a decent wage. I'm wondering if the changes to the ability to vote in a different way, and also the ability to sort of sequester yourself in a neutral setting, might increase the participation rates in organizing.

Ms. Sonia Singh: I think, especially in the kinds of sectors we are working in—people working in cleaning and painting, and even to some extent in construction—that the degree of intimidation people face is staggering, and that is often the biggest barrier in even signing a card in the first place. So definitely, when it comes time to a vote, having the option or having the possibility to have voting happen at a neutral site where that potential for employer intimidation—even if an employer is not actively doing something, but just the fact that the box is outside the manager's office—is a factor that is going to make a lot of people think twice about what action they take.

Mr. Taras Natyshak: Unfortunately—

The Chair (Mr. Peter Tabuns): I'm afraid, Mr. Natyshak, we've come to the end of the time. Thank you for your presentation.

SOCIAL PLANNING TORONTO

The Chair (Mr. Peter Tabuns): Next we have Navjeet Sidhu from Social Planning Toronto. Mr. Sidhu, as I'm sure you know by now, you have 10 minutes, and five minutes for questions. If you could give us your name, please start.

Mr. Navjeet Sidhu: Navjeet Sidhu. I'm a researcher with Social Planning Toronto. Social Planning Toronto is a non-profit community organization engaged in research, policy analysis, community development and civic engagement aimed at improving the quality of life of Toronto residents. SPT's work focuses on poverty reduction, with an emphasis on income security, good jobs, affordable housing and strong public education.

SPT would like to commend the government on its intent to amend the Labour Relations Act in order to increase fairness for Ontario workers and provide better protection from employers who seek to make it difficult for workers to collectively organize in the workplace and/or usurp these rights once a union has been formed. We believe that workers should not have to fear for their jobs and livelihoods simply for exercising their democratic right to unionize. While denying certain groups of workers their right to organize is prohibited, employers have nonetheless exploited gaps in the Labour Relations Act to intimidate workers and both influence and undermine the unionization process. This bill seeks to address some of the key issues that workers who wish to organize are facing in the workplace.

SPT therefore fully supports the amendments contained in this bill: early disclosure of employee lists, reinstatement of workers during an organizing campaign, interest arbitration for a first contract, neutral and off-site voting and telephone/electronic voting, and successor rights for contract services, each of which will work toward reducing the barriers for workers to organize and benefit from the collective bargaining process.

The importance of this bill cannot be understated, not only in terms of improving wages and working conditions for Ontarians, but as a means of reducing poverty in the province and our communities as a whole. As you are no doubt aware, the figures detailing Ontario's growing income inequality are troubling. In Toronto alone, nearly one in four residents is living in poverty. Between 2000 and 2005, the working poor population of the city increased by nearly 39%. In Ontario, the number of working poor increased by 24% between the same years. As well, in Ontario, the richest 10% of families earned almost 75 times more than the poorest 10%.

As Iglika Ivanova, an economist with the Canadian Centre for Policy Alternatives, recently noted, "The research evidence is clear: the labour market is at the root of Canada's growing income inequality. The earnings of Canadians have become increasingly polarized, with mind-boggling CEO compensation packages at the top, stagnating wages in the middle and persistently low wages combined with increasingly precarious work arrangements at the bottom. If we are serious about reducing inequality, we must take the bull by the horns and directly intervene in the labour market to ensure that it produces a more equal distribution of earnings. This means improving the earnings and working conditions of low-wage workers."

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The workers who will benefit most from this bill are those who have been pushed further down the economic ladder by employers who continue to demand greater flexibility from the workforce in order to increase competitiveness on the global market. Unfortunately, terms such as "competitiveness" and "flexibility" have become synonymous with blatant disregard for employment standards, increased insecure and unsafe work, poverty-level wages and theft of workers' wages.

The amendments also make initial steps in acknowledging the changing nature of work in the province. Full-time permanent jobs are being eroded in favour of more part-time, temporary, precarious work, as we continue towards a path away from a manufacturing-based economy towards a service-based economy. Between 1991 and 2006, for example, the rate of entry-level jobs in Ontario—those requiring lower levels of education—increased by approximately 27%.

With women, people of colour and newcomers being disproportionately represented in precarious forms of work, they are often the ones who are paid the lowest, receive little to no benefits and are often at the mercy of unscrupulous and abusive employers who get away with forcing people to work long hours in unsafe working conditions while oftentimes not paying them their full wages. Protecting vulnerable workers requires updating and modernizing labour laws, extending employment rights to those groups of workers who have been excluded from legislation, greater enforcement of employment standards and protecting the right of collective organizing for all workers.

We believe these amendments proposed in Bill 77 are a crucial first step towards not only bringing about greater fairness for Ontario workers, but also towards reducing economic inequality in the province—objectives directly in line with Ontario's 2008 poverty reduction strategy. Additionally, these amendments make economic sense. These changes will not result in additional costs being borne by the province, and an increase in wages and job security can only result in a better quality of life for workers and their families and increased spending by workers in their local communities.

Social Planning Toronto fully supports these changes and trusts that this government will continue to work towards restoring respect and dignity in the workplace and help make an insecure economy and labour market more secure. Thank you.

The Chair (Mr. Peter Tabuns): Questions go to the government. Tracy MacCharles.

Ms. Tracy MacCharles: Thank you, Chair, and thank you for your presentation today.

When we look at Bill 77, I'm interested in hearing a bit more about which elements of the bill you feel most strongly about. Which of the elements in the bill do you feel would address the issues you've outlined for us here today?

Mr. Navjeet Sidhu: Well, I wouldn't specifically pick out one as being better than the other. I think people who are working on the ground would have a better idea of which of those elements might deserve more attention. I can speak more generally, as a whole: If you put all those pieces together, I think they really work to benefit those workers who are still struggling to organize in their workplaces.

Ms. Tracy MacCharles: Okay. You've identified a number of important issues that I don't think are included in the bill, but perhaps what you're suggesting is that they relate to the bill?

Mr. Navjeet Sidhu: Yes.

Ms. Tracy MacCharles: Perhaps some other things around the Employment Standards Act and poverty, for example.

You may be aware that our government is very focused on investing in supporting children in poverty and lifting children out of poverty, because they are future employees and future taxpayers and so on. I'm just wondering if you have any comments on that focus in the poverty reduction strategy.

Mr. Navjeet Sidhu: Children are still products of their parents, their parents who are working, so obviously you need to strengthen the working conditions of parents so that they will be able to better support their children as they grow into future workers. You can't speak about child poverty without talking about workers as well.

Ms. Tracy MacCharles: So are you supportive of the increases that have been in Ontario to the minimum wage, to the Ontario child benefit, things like that?

Mr. Navjeet Sidhu: Very much. I think they're important first steps, and we need to keep moving in that direction.

Ms. Tracy MacCharles: Thank you very much for coming in today.

Mr. Navjeet Sidhu: You're welcome.

The Chair (Mr. Peter Tabuns): Mr. Coteau.

Mr. Michael Coteau: I would like to thank you for your presentation. I know that Social Planning Toronto does a lot of work. We have John Campey's work around education, around school funding and community space.

Mr. Navjeet Sidhu: He sends his love.

Mr. Michael Coteau: Successor rights for the contract service sector is a big item in this bill. Do you have any comments on that?

Mr. Navjeet Sidhu: Only from what I've heard from fellow advocates who are working in this area. I'll admit I'm not too familiar with the ins and outs of these legislations, but I fully support many of the community organizations and labour unions that we work closely with. They know what they're talking about, so we fully stand behind them.

Mr. Michael Coteau: Last question: The economist you made reference to says that the "labour market is at the root of Canada's growing income...."—how would you compare that statement in comparison to education being one of the root causes? I know there are a lot of groups out there that would say that actually education levels are a root cause, even more so than the labour market. Do you have any comment on the at?

Mr. Navjeet Sidhu: Again, I believe all of these are intertwined. Education costs here are exorbitantly high, and parents of children who want to go into post-secondary education need to work longer hours in order to get their kids into education. Again, I don't believe in silo-ing labour market, education—those are all intertwined, and I think we need to acknowledge that.

Mr. Michael Coteau: Thank you very much.

Mr. Navjeet Sidhu: You're welcome.

The Chair (Mr. Peter Tabuns): Thank you for your presentation.

PARKDALE COMMUNITY LEGAL SERVICES

The Chair (Mr. Peter Tabuns): I will now call on Parkdale Community Legal Services: Roberto Henriquez, James Roundell. Gentlemen, you'll have 10 minutes to speak and five minutes for questions, as I'm sure you've heard. If you'd just give your names for Hansard and please commence.

Mr. Roberto Henriquez: Roberto Henriquez.

Mr. James Roundell: James Roundell.

Mr. Henriquez and I work at Parkdale Community Legal Services on workers' rights. We provide assistance and legal representation concerning employment standards, employment insurance, human rights and occupational health and safety.

The clinic and our work provide us with a unique knowledge of how the effects of low-wage and precarious work extend beyond the worker to her family and community. A community working in low-wage and precarious work has increased rates of immigration, refugees, social assistance and tenant legal issues, to name a few—all areas of legal work at Parkdale Community Legal Services. In addition, we work with communities in low-wage and precarious work to improve labour standards through education and law reform.

Mr. Henriquez and I also work at Workers' Action Centre and participate in joint campaigns coordinated by the two organizations. Our work at Workers' Action Centre exposes us to the despair that causes workers to accept low-wage and precarious work and reinforces our understanding that they need our protection.

Mr. Roberto Henriquez: Now, as my colleague James has said, our day-to-day experience with people in low-wage work has allowed us to see how our labour market is leaving workers and their families struggling in poverty and facing economic insecurity. More people are finding themselves in part-time, contract type of work, often juggling two or three jobs. Workers are facing greater difficulty planning their daily lives and supporting their families. Many jobs today fail to provide adequate incomes, supplemental health benefits, sick pay or pensions. Work is not a pathway out of poverty for many of these workers.

Precarious work has become a persistent feature of our economy. Such precarious work is characterized as non-standard work that is temporary rather than permanent. It is work marked by job and income insecurity, low wages and limited employment benefits. It may also be work shaped by particular immigration rules and by instability.

Precarious work includes work that lacks meaningful access to employment rights. As precarious work has developed over recent decades, it has become marked by processes of racialization and gendering. By that, we mean the ways in which women, immigrant, migrant and racialized worker groups are incorporated into the labour market, yet our labour laws and employment benefits are still based on a standard employment relationship developed after World War II.

Increasingly, gaps in our labour laws and practices have created incentives for employers to move work beyond the protection of employment standards and labour law. Work that used to be done in-house is now outsourced by companies. Employers seek to hire people indirectly through intermediaries. Temporary help agencies, for instance, are examples of this.

Employment is also being disguised as independent contracting or franchising as employers seek to bypass our labour laws. Many of these practices seek to shift the costs and liabilities of the employment relationship onto the intermediaries and onto the workers who can least afford it.

Employers rationalize these practices as necessities to improve flexibility in an increasingly globalized world, but workers' experiences show that outsourcing, indirect hiring and misclassifying workers takes place in sectors with distinctly local markets: business services, construction, retail, warehousing, transportation, health care and manufacturing of goods that are consumed locally. The recent recessionary cycles have brought declines in manufacturing jobs and a growth in service jobs.

1500

The Employment Standards Act, which is the protection for many of the employees, has become increasingly unable to address substandard conditions in today's economy. The failure of governments over the past 30 years to adequately fund and staff employment standards regulation, and the shift from enforcement in workplaces to enforcement through individual claims by former employees, has essentially shifted the onus for enforcement onto the workers—those workers, again, who have the least amount of power in these relationships.

History demonstrates that employers create new, unforeseen and unprotected work arrangements. That is why an essential first step must be to expand the scope of our labour laws to include all those who work in all forms of work arrangements. In this way, we can remove the incentives and statutory mechanisms allowing employers to move some forms of work beyond the reach of current labour law protection. By requiring all work to meet basic minimum labour standards, we can finally establish a level playing field for employers and a minimum floor of rights and standards for the workers in our society.

Until 1995, Ontario extended successor rights to businesses or companies that used contractors for services,

such as security, cleaning and food services. After these protections for these businesses' service workers were removed, we have witnessed a variety of practices which function effectively to lower wages, working conditions and the employees' voice and protection.

In 2007, we represented cleaners at Countrywide Maintenance. This cleaning company operated as a pyramid, whereby supervisors had to create their own franchises and hire subcontractor cleaners. With business costs shifted to supervisors and the cleaners themselves, Countrywide underbid many cleaning companies in buildings that had unions or better wages and working conditions. Cleaners ended up paying fees for work, paying for their own cleaning materials, and earned less than minimum wage. Without successor rights protection, we have seen a growth in fly-by-night operators that bid for contracts, that cannot meet minimum labour standards, thus pushing out better-paid and more stable cleaners.

With unequal power between workers and employers and no real protections against reprisals, workers can do little to enforce their rights while they are on the job. Experience demonstrates that the most effective enforcement of employment standards legislation occurs through grievance and arbitration when workers are covered by a collective agreement. However, people in precarious forms of work face substantial barriers in exercising their right to unionize. The Labour Relations Act does not address the challenges of many of the new features of the labour market. So in addition to more effective enforcement of employment standards, we must also address the statutory and practical barriers, people in precarious work face when they are trying to exercise their collective rights.

With respect to modernizing the Labour Relations Act, which is what we are discussing today, the service sector makes up 53% of the labour market and is marked by low wages, low unionization rates and job instability. Work in the service sector can be spread out in different locations, with workers often separated from each other. Work is often in smaller workplaces and may be done through direct and indirect contracting. Yet the Labour Relations Act was itself built with the standard employment relationship in mind. It was written during a time when there was one single workplace with direct employment relationships and long-term employment. Workers in low-wage and precarious work are more likely to have their legal rights to health and safety and minimum employment standards violated than are unionized workers.

Bill 77, the Fairness for Employees Act, provides some modest steps to improve workers' access to unionization. It would reduce barriers workers face in communicating with each other in forming a union, providing some protections against employer reprisals and expanding the scope of successor rights to vulnerable workers in business services.

Mr. James Roundell: We support the following five changes:

(1) Early disclosure of employee lists: We support this change.

(2) Reinstatement pending the outcome of a hearing: We support this change.

(3) Neutral and off-site voting, including telephone and electronic voting: We support this change, noting this change is required because a vote to form a union requires 50% plus one of the employees. Since a non-vote is the equivalent of a vote against, workers in support of the union have a much greater incentive to vote.

(4) Interest arbitration for a first contract: We support this change.

(5) Successor rights for the contract services sector: We support this change, and we recommend an amendment to include all contract services provided directly or indirectly to a building owner, manager or occupant.

In conclusion, the proposed amendments to the OLRA are very modest. However, they will positively benefit workers in low-wage and precarious work. Thank you.

The Chair (Mr. Peter Tabuns): Questions to the official opposition. Mr. McDonell.

Mr. Jim McDonell: You seem to talk about how this law will bring things as a matter of legalities, on a legal base. If the employment standards are there and they're law, why is a unionized employee—it applies to both sides. I just wonder if you could explain what you mean by that.

Mr. James Roundell: With the protection of collective bargaining and support among workers in a union setting, it enables them to be able to communicate through the information channels that are opened up via a union, whereas workers who are not in a unionized workplace often are unable to communicate with each other because they may not work at the same location or they may not be doing the exact same types of work. They may be working from home, for example.

Mr. Jim McDonell: It's not the same situation. I mean, if you're working by yourself, you're working by yourself. Whether you're part of a union or not doesn't change that. There are minimum standards, and I guess our job is to make sure they're followed.

Mr. Roberto Henriquez: Yes, that's part of the difficulty we face with some clients. Generally, employers will tend to say that the individual is working by themselves—"Joe is actually on his own; he doesn't work as part of a larger labour force that we have"—when in reality, despite what a contract may say, that the individual is an independent contractor and is not actually working as an employee, some of the realities of what exists within the relationship tend to indicate that the person may actually be an employee. So a lot of times, employers may try to evade some of the Employment Standards Act regulations by mislabelling them as independent contractors. If you can allow these groups to work as a collective here and form a union, it automatically pushes them beyond the restrictions that are in the Employment Standards Act to protect them, and now

you would allow them to effectively attain the protection offered under the Ontario Labour Relations Act.

Mr. Bill Walker: May I?

The Chair (Mr. Peter Tabuns): Yes, Mr. Walker.

Mr. Bill Walker: Mine is kind of related. I believe it was Ms. Singh who said there was a contract worker, or one labelled as a contract worker, who did fight and won her case. I'm kind of getting confused, because if there are labour standards and employment standards in place, and there was a prime example she utilized that the law is in place, and we regained that, I'm still just trying to get more clarity on what's the real difference then.

I'm not thinking of the big, large corporation, which seems to be in most of the documentation you're speaking to. I'm talking to the little plumber who has two people hired. They're saying to me, "This will kill me. It is going to put me out of business if we allow this to go forward." So I need to understand because, kind of like Jim, I'm making the assumption that there are laws and standards in place that individuals such as I—I've worked in a unionized environment, I've worked in management and now, obviously, I'm working here, a little bit of a hybrid of both, perhaps.

I'm really sincere in trying to figure out—I get the big corporation in this case, but there are also the Hondas of the world that are not unionized, and from all accounts when I'm speaking to a lot of people, they quite enjoy that. I'm trying to figure out if there's really a benefit—and has to be—and what the difference is.

Mr. James Roundell: I guess right away, especially for the plumber who has just a few employees, that's a great part of our economy and we totally want to respect it. The problem that plumber who is employing just a few employees has to compete with is other plumbers who are not respecting the Employment Standards Act. Those other employers are using divide and conquer and splitting their employees so that they can't collectively act out. They need the job, and they're in a precarious position. They need to work, and so they can't stand up to their employer. I think this would support the plumber who has just a few employees.

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Mr. Bill Walker: A point of clarification, if I could, though: My understanding would be, there still are laws. My concern with government is, we try to whitewash everything. We've wiped out a whole industry of abattoirs in rural Ontario because of something that happened at a big-corporation level. We then said, "Here's the standard." The little guy in rural Ontario can't afford to do that. My concern is very similar here.

If that small plumber who's not abiding by the laws and the standards—I'm not certain that unionization is the only answer here. That person should be pushed to adhere to the laws. People can stand up no differently as an individual or with a union, as the person who was alluded to did. The law did, probably, in the estimation of myself, the right thing. They looked at the law and said, "Yes, you're contravening it. Here's the judgment."

I'm not certain in those cases that, again, just going always to a union is the basis, and that's what I'm hearing from my constituents.

Mr. Roberto Henriquez: Well, perhaps my colleague James can add to this, but generally what we see with the individuals who we work with, who are those individuals who are in precarious types of employment, is they are a very vulnerable group of people. Oftentimes just the process of even coming into the clinic and trying to raise some of these claims is a very difficult prospect for them. The process itself is very drawn out. It's incredibly difficult, despite what you might think is a fairly evident case. In that particular situation, it may be that it took much longer—the progression to get to that point was incredibly long and laboured. This is the experience that both James and I have felt.

If you allow them to unionize—and I should also add, with respect to what we are referring to, a lot of the times it isn't the big, bad corporation. It is the smaller corporate mom-and-pop shop, or the plumber who forces his employee to purchase his tools, purchase his uniform, doesn't perhaps pay him at the minimum wage. That's the difficulty they face. But to allow these groups of people to unionize—

The Chair (Mr. Peter Tabuns): Thank you for your presentation. I'm sorry; I have to wind you up.

ONTARIO PUBLIC SERVICE EMPLOYEES UNION

The Chair (Mr. Peter Tabuns): We're going now to the Ontario Public Service Employees Union. Gentlemen, thank you so much.

We've got Mike Grimaldi and Doug Evetts. Gentlemen, you've been around long enough that I know that you know the routine. You get 10 minutes to speak; five minutes of questions. If you'd start by giving your names for Hansard.

Mr. Mike Grimaldi: Mike Grimaldi. Thank you, Chair. Good afternoon. I'm Mike Grimaldi, and I'm the vice-president of the Ontario Public Service Employees Union for the west-central region of Ontario. My region takes in areas like Niagara, the Hamilton area, Grey-Bruce, Owen Sound, Kitchener–Waterloo and the surrounding areas, including parts of Mississauga.

I'm extremely proud to be here to represent all of the 130,000 members of OPSEU in more than 500 bargaining units serving literally every community in this province. I want to thank the committee for the opportunity to discuss Bill 77, the Fairness for Employees Act.

The issue of unionization, and how government uses the law to either encourage it or discourage it, is of great importance to working people.

As a general rule, unionized workers have better pay than their non-union counterparts. Union members are more likely to be in an employer pension plan and more likely to have supplementary health benefits. Unionization gives working people a democratic voice in their workplaces and in the life of their community. Given these facts, it's obvious enough why workers want to be

union members. Unfortunately, non-union workers face many obstacles to unionization.

Workers who want a union face intimidation and the threat of job loss. They face a law that is tilted in favour of employers, who not only have the power to hire, fire and discipline, but also control the organization of the workplace and the dissemination of information.

Our current laws are out of date. While ostensibly designed to facilitate collective bargaining, the law today too often has the effect of preventing it. In many ways, we have not come very far from the days of Adam Smith, who wrote in 1776, "We have no acts of Parliament against combining to lower the price of work; but many against combining to raise it."

Before I get into the details of what we could do to make unionization easier, I'd like to touch on a more fundamental point: It should be easier for employees to unionize than it is. That is their legal right. They have a great deal of difficulty exercising it.

As you know, we're living in a time with increasing economic inequality, which pollster Frank Graves recently identified as the most important issue in the minds of Canadian voters. Why? Because for working people, the last three decades have been a time of stagnant real wages, or, for many, falling real wages. For business, particularly large corporations, this has been a time of rising profits and skyrocketing incomes for CEOs and top managers. In 2010, the average income of the top 100 CEOs in Canada was 189 times that of the average full-time worker. This was a huge jump even from 1998, when the ratio was 105 to one.

The trends of the last 30 years represent a sharp shift in the labour markets compared to the three decades after World War II. In those days, productivity was rising, and wages rose in tandem with productivity growth. Unionization, while it has never been encouraged in this country by employers, was at least tolerated, and industrial workplaces were large and relatively easy to organize. While rising productivity made higher wages more affordable for employers in the post-war era, there is no automatic link between productivity and wages. It took the hard work of organizing and bargaining by unions to ensure that productivity gains led to wage gains. But since the late 1970s, that has become much harder to do. According to a study by the Centre for the Study of Living Standards, Canadian labour productivity grew by 37% from 1980 to 2005 and real median wages over that period did not increase at all.

The current era really began in 1979 when US Federal Reserve Chair Paul Volcker declared, "The American standard of living must decline," and hiked interest rates to record levels, choking the economy and stripping workers of their bargaining power. Then in 1981, US President Ronald Reagan—notice it's spelled right—fired the country's air traffic controllers, sending every American worker a clear message that their government was not on their side.

Policy changes in the US quickly spread around the world. In Canada, the policies of the neo-liberal era, from free trade to corporate tax cuts to privatization of public services, have all had the same effect of driving down wages while boosting profits. Repression of unions has been part of this toolbox. This must end if we truly want to reduce inequality in Ontario and get our economy back on its feet.

It is now well known that working people have made up for stagnant wages by taking on more debt. Obviously, this cannot go on forever, but consumer spending is the rock on which our economy is built. When workers can't spend, everybody pays. Right now, consumers are in debt and governments are in debt, but employers—who have benefited from the policy changes of the neo-liberal era—are flush with cash. Canadian non-financial corporations are now sitting on $527 billion in cash—not investments, but cash—and can't seem to find a place to put it. They are not investing because they have little confidence that they will be able to sell what new investments might produce. The problem here and globally is a lack of consumer demand. As corporations in this country look forward to their annual profit growth in the 7% to 8% range—and everybody has heard about record profits being made, year after year—Ontario workers have seen real wages fall by 2% in the last year. That must change.

The best way to restore aggregate demand is to remember that profit comes from labour and to reverse the downward trends in wages.

Bill 77 proposes some modest first steps to start to make that happen. I'd like to comment briefly on the main points of the bill.

Successor rights: The purpose of successor rights is to protect workers when employers change. Under the current law, this does not happen in cases of contract re-tendering. We believe it should. In OPSEU, we have seen the effects of re-tendering, particularly in home care, where competitive bidding has driven down wages for staff in order to fund the profits of private home care companies and has severed relationships between patients and front-line care providers. We support amending the OLRA to guarantee successor rights in the contract services sector.

I want to tell the standing committee that in my home area of Niagara, for over 75 years, the Victorian Order of Nurses had had the home care contract. They went into the bidding process that was enacted by a former government and amended but continued under the new government. They allowed that to happen. It not only changed the providers, but it meant that many seniors, many vulnerable medical patients at home, had to suddenly change their nursing care. I don't think that there's anybody on this standing committee who believes that that's what should happen. People who had had long-term relationships with their nurses and health care providers were suddenly left without health care providers or provided with new health care providers, people who didn't know—who had to do the most intricate and intimate of medical procedures.

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First-contract arbitration: The rationale for allowing arbitration of first contract was eloquently expressed in

1985 by Bill Wrye, the then Ontario Liberal Minister of Labour, who said:

"Where ... the momentum of an organizing campaign and the desired expression of the majority for a collective agreement are frustrated at the bargaining table, there is a natural tendency for the employer to regard the union's defeat as vindication of its own position, and there is a risk that legitimate concerns of the workforce may be ignored ... the government believes that first-contract arbitration is essential."

There was a government member with a social conscience. It would be nice to see that happen again.

The problem with the current law is simply that the bar is set too high for first-contract arbitration to be set in motion. We support the simple mechanism proposed in Bill 77 to ensure that new bargaining units can be set on a stable foundation without unnecessary delays, but in addition to that, without violence and people getting injured on picket lines.

Leadership—

The Chair (Mr. Peter Tabuns): You have one minute left.

Mr. Mike Grimaldi: Leadership: What is most important about Bill Wrye's comments is that they show leadership in support of a fair deal for working people. That type of leadership is critical when it comes to labour relations. What we need in Ontario is leadership from government—by which I mean every MPP in this room and in the Legislature—that says to working people, "We understand what you're going through. We want you to get ahead in life. We're willing to take real action to help you do it."

Intimidation and certification: We support Bill 77's move to improve protections for workers who are fired during an organizing drive. But again, what is just as important is to reduce employer bullying. You just passed a bill in the Legislature which I thought was a wonderful bill to prevent bullying in schools. You know what? We need the same kind of legislation in the employer's premises as well.

The real significance of Bill 77 is not only the changes proposed, but rather the opportunity it presents to send a message—

The Chair (Mr. Peter Tabuns): Thank you, Mr. Grimaldi. I'm sorry—

Mr. Mike Grimaldi: That's it?

The Chair (Mr. Peter Tabuns): That's it.

Mr. Mike Grimaldi: Okay. You've got the rest. Go ahead.

The Chair (Mr. Peter Tabuns): I have a feeling that you'll get some sympathetic questions. Third party: Mr. Natyshak.

Mr. Taras Natyshak: Never. Thank you, Chair.

Thank you, Mr. Grimaldi; thank you, Mr. Evetts, for appearing before committee. From your position, given the context of Bill 55, the budget bill, can you give me a general feeling of the sentiment of labour in this province, given what's built into Bill 55?

Mr. Mike Grimaldi: Well, certainly from the perspective of our union, it appears that working people are under attack across this province. Bill 55 has a number of provisions that quite frankly scare me to death. The attack on pensions, which I can speak to: We had a meeting with the government side with regard to pensions, and I can tell you that to destroy public sector pensions is the absolute wrong way to go. What we need to do is one of the things that—we were told in meetings with the government: "What about the $14,000-a-year single mother? Doesn't she deserve a pension when you've got public sector pensions?"

The fact of the matter is, the $14,000-a-year public sector mothers, in many cases, are public sector workers. If you look into the broader public sector—if you look into the liquor board, it was making billions of dollars. A lot of their part-time and casual members only dream of making $14,000 a year. People who work in children's aid societies, people who work in ACLs, people who work in developmental services: Many of those people barely make that amount of money.

Mr. Taras Natyshak: Thank you, Brother. That being said—

Mr. Bill Walker: Very leading.

Mr. Taras Natyshak: That wasn't leading; I'm just thanking my brother. You're all my brothers in here.

In that light, as a labour leader, how long do you feel it has been in this province since you've seen any progressive labour legislation or reform to the Labour Relations Act? Quickly.

Mr. Mike Grimaldi: Since 1994.

Mr. Taras Natyshak: Thank you for the quickly pointed question.

Thirdly, through the passage of these modest reforms to the Labour Relations Act, what will be the sentiment through organized labour in the province in terms of a signal from the government making these changes? Do you think it will go some way to repairing, reparation, easing some of those angsts that exists currently?

Mr. Mike Grimaldi: Two quick points: One is, it's a good start. It doesn't go far enough, because we believe card-check should be part of this.

Mr. Taras Natyshak: Unfortunately, it isn't.

Mr. Mike Grimaldi: We think that card-check is a real issue. Secondly, it would mean that this government has finally started listening to labour rather than attacking labour. Third, I guess, it would be a good thing for the middle class.

Mr. Taras Natyshak: How much more time have I got, Chair?

The Chair (Mr. Peter Tabuns): You have about a minute and a half.

Mr. Taras Natyshak: One of the areas that is unclear—well, it's clear to me but unclear to some of the members—is the need to have neutral off-site voting for the certification process, so that workers can feel as though they're not going to be undermined or pressured to vote either way. I'm wondering what this small step would be to infuse that into law.

Mr. Mike Grimaldi: I can tell you that I just had a conversation with one of our organizers today, who said

that in a workplace where they were trying to organize, what management did is, the HR director came down and had a meeting with all the employees on general workplace issues and then centred out the two people who were signing the cards and said, "You and you have to come into my office, because we have to have a conversation." That puts a chill on the whole organizing movement. And then, to put the vote into the workplace, knowing the approach of management, knowing that kind of bullying technique, means that it's really unfair to expect those workers then to feel safe and feel secure in that workplace. Just as the school law about bullying says that we need to protect those students, when we come to bullying management, we need to protect those workers.

It goes beyond that, to what I said about card-check. If it's good enough to get married, it should be good enough to sign a union card and mean the same thing. I think that your signature should mean something.

In addition to that, only putting it in the construction industry is, in my view, a real disservice to female employees, because the construction industry is male-dominated. Many of our workplaces are female-dominated, and they should have the same opportunity to join a union as a man should.

The Chair (Mr. Peter Tabuns): Thank you very much for that presentation.

Mr. Mike Grimaldi: Thank you.

The Chair (Mr. Peter Tabuns): Thanks, Mike.

CANADIAN AUTO WORKERS

The Chair (Mr. Peter Tabuns): Our next presenters—I now call on Canadian Auto Workers. I have Lewis Gottheil. If you could have a seat—and Jenny Ahn. You have 10 minutes to speak, with five minutes of questions. If you'd introduce yourselves for Hansard and please proceed.

Mr. Lewis Gottheil: Good afternoon, Mr. Chairman and members of the committee. My name is Lewis Gottheil. I'm counsel with CAW Canada. To my right is Jenny Ahn, director of political campaigns and mobilization for the CAW. Thank you for the opportunity to address you with respect to Bill 77.

As you know, CAW Canada is a leading private sector union in Ontario and in Canada and represents in excess of 80,000 workers in the province of Ontario. We represent workers in a diverse range of sectors in the economy.

If there's a unifying theme to our brief, it's this: Bill 77 makes significant yet modest progress towards the public policy objective of enhancing the exercise of collective bargaining in Ontario.

The bill recognizes that our constitutional right with respect to freedom of association goes further than the right simply to be a member of a union or the right for the union to be certified. Really, our fundamental freedom to associate goes further, and it includes the right to engage in meaningful collective bargaining with one's employer, to have input, meaningful input, into one's terms and conditions of employment. In this sense, the freedom to associate can be seen to be an instrument by which we can democratize, with a view to making productive and flexible the one place where most adults spend the majority of their adult life, the workplace.

Our brief focuses on two key themes and two key items, and that's where I'm going to spend my time with you just now. First is the matter of expanding access to first-contract arbitration, to ensure that a new collective bargaining relationship can properly take root and properly develop over the mid- and long term, to facilitate collective bargaining and the advancement of the interests of all parties in the workplace.

1530

The second item: We'll briefly touch on the new rules regarding disclosure of employee lists so that unions can properly determine who is subject to an organizing campaign, so workers can properly determine who amongst their co-workers is subject to, would be impacted by, an organizing campaign, and so that all parties to the process can avoid needless disputes at the end of the day before a labour board as to who is in or out of the proposed bargaining unit and really facilitate the process.

As you know, Bill 77 proposes that first-contract arbitration be available after the Minister of Labour has issued a no-board report; that is, after the minister decides that it's not advisable to appoint a conciliation board. Why is this appropriate? It's appropriate because first-contract negotiations are notoriously difficult. Oftentimes, the parties have just come off of what's been perhaps a contentious certification campaign. Emotions can be a bit raw still. Parties are still getting used to the process and still taking steps to build a relationship that might have gotten off on the wrong foot initially.

Then the rules of employment that have been in place have to be reduced into a collective agreement, and sometimes those rules are sketchy, sometimes they're not well set out, and that process is a pretty important task and takes quite a bit of effort.

Moreover, there's no just-cause protection yet in the workplace, so workers may be a bit apprehensive about even stepping forward to participate in the collective bargaining process for fear—still yet—of reprisal. Moreover, there's an incentive built into the system at this point for delay. There's an incentive, unfortunately, that might be attractive to employers to delay in order to do two things: number one, frustrate the process so that expectations of workers are diminished and therefore the bargaining power of the bargaining agent is weakened; and the second is that, according to the act, after a year, if there's no collective bargaining agreement, the union is vulnerable to decertification—unfortunately, an incentive for delay. So access to first-contract arbitration in this more flexible fashion, in this more flexible system, means there's no incentive for delay, but there is an incentive for the parties to reach a voluntary settlement rather than risk putting the resolution of the dispute in the hands of an arbitrator.

One might think that first-contract arbitration might persuade the parties to defer to an arbitrator, but in our

brief we refer to empirical evidence, as set out in an article at page 8 of our brief, where it appears that the empirical evidence reveals that parties are more inclined to make a voluntary deal, particularly in a first-contract arbitration process, and fashion their own terms and conditions of employment. So, in this sense, first-contract arbitration enhances the public policy objective of free collective bargaining. It allows the parties to build an undeveloped relationship into an established relationship. It allows that relationship to get rooted. If the parties are unable to establish it themselves, it gives them the opportunity to do so, and it facilitates the fundamental aspect of the freedom of association: true collective bargaining.

This proposed provision is not new. It's found in the Quebec Labour Code, and it's found in the labour codes of Manitoba and BC. Ontario, in a sense, would be joining constituencies or jurisdictions that are quite established in Canada.

Now, let me move on quickly to our second key point, and that's the point of lists. The issue of employer disclosure of lists has become all the more paramount now because of the changing nature and changing demographic of our workplaces. As we note in our brief and as has been established by others, the number of casual, contract, part-time, precarious workers in the workplace has multiplied exponentially over the past 25 years. The five-day-a-week, 9-to-5 workforce is disappearing.

To access collective bargaining, to access certification, workers need to know who their co-workers are so they can communicate with them. Workers in unions need to know what job their co-workers do, what classification they're in, so they know who will be affected by the application for certification.

It's hard to identify or communicate with workers when they have no fixed schedule. They may be casual; they may be in or out of the workplace. How do you talk to them? You don't know. We have real-life experience with this problem.

Some of you may know or recall that CAW Canada engaged in a certification campaign at the Niagara casino. We had significant interest expressed to us by a significant segment of the workforce for unionization, and we engaged in that campaign. We filed an application for certification; we had satisfactory support to make that application. Two days before the vote, we get a list from the employer. Several hundred casual workers appear on the list, and they live in many towns and cities in the little horseshoe adjacent to Niagara, including Toronto. No one had any idea who the workers were, nor could we have reasonably had an idea, even with due diligence, because the workers came in and came out, almost unannounced, due to convention, due to fluctuating demand at the casino—a fundamental problem. We had the prospect of days and days of litigation to figure that out.

We can multiply those examples. We have a campaign going on right now with respect to taxi drivers who work in and out of Pearson Airport, with the same problem in terms of identifying who it is people should talk to. I think to avoid litigation, to avoid confusion, to avoid surprises and to allow workers to communicate with each other to facilitate collective bargaining, this is a very, very important amendment, which I urge you to look on favourably.

There are lots of other points in the bill. I'm going to stop here to allow us to have a bit of a discussion on any issues you'd like to talk about.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the government. Ms. MacCharles.

Ms. Tracy MacCharles: I'd like to thank you for your very comprehensive presentation, particularly your analysis of the first-contract arbitration provisions expansion to that. I certainly learned a few things, so thank you for that.

But my question is more about the lists, and providing lists of employees. I'm wondering if you have any awareness of how this happens in other jurisdictions, any best practices around this. Would we be leading or following others if this was adopted?

Mr. Lewis Gottheil: My sense is, Ontario would be leading in this respect. However, I want to underline that the issue relating to the provision of lists has already been settled once there's a collective agreement.

Ms. Tracy MacCharles: Of course. Yes.

Mr. Lewis Gottheil: Although there was some controversy, now the law is quite clear. Once there's a collective agreement, the employer has to provide not just the names and classification of workers, which is what I understand Bill 77 to speak of, but even go further: their addresses, emails, phone numbers.

The balancing act—if there's any concern about being a little bit too far ahead in terms of the privacy concerns, they have been addressed by arbitrators in the context of established agreements. The moderate step forward that's provided here, I think, is a balanced way forward that balances the workers' right to privacy, yet at the same time allows workers to communicate with each other and associate with each other. It's one area where Ontario may be taking a step forward but it's a moderate one, and it's the right one to take at this time.

Ms. Tracy MacCharles: You've answered my next question about privacy. Any other questions from the government side? Okay, thank you very much for your presentation and for being here today.

The Chair (Mr. Peter Tabuns): I'll go to the opposition. Do you have any questions?

Mr. Jim McDonell: Yes, I have a question.

The Chair (Mr. Peter Tabuns): Mr. McDonell?

Mr. Jim McDonell: I think everybody has a keen interest in making sure that the workers have a fair chance to voice their opinions or their wishes. I'm wondering why we don't defer to the very similar process we have in our election system. It may be off-site but it's certainly a secret ballot. You're not allowed, on either side—or, in the case of political elections, the candidates or parties aren't allowed to advertise or be within a certain distance of the polling stations. Why is that not

enough? I can't help but think that that's the most fair. Even in a card-based system, employers know what their choice is. With a secret ballot, nobody does.

1540

Mr. Lewis Gottheil: Well, let me address it this way by saying, my understanding is that—

Mr. Jim McDonell: I'm talking even when you talk about telephone—as soon as you go to those systems, people know, but then they're open. There's no fair way for either side to see that nobody was coerced one way or the other.

Mr. Lewis Gottheil: Well, let me break it down. We didn't address the telephone and Internet systems in any detailed way in our brief, but let me deal with that and then deal with the second part of your question.

The telephone and Internet voting system is a moderate step forward that we know already the federal board uses. Anything that allows a worker to freely express his or her views without the apprehended prospect of an employer knowing or influencing that choice is desirable, and a real-life problem is, if you have a vote and the worker—

Mr. Jim McDonell: But I guess if I'm—

Mr. Lewis Gottheil: If I can—

Mr. Jim McDonell: But I'm the same way, though: You have to have the employee know that he's not being coerced by the other side as well. He should be free and open to make his choice and have nobody know. I can't help but think when I sit in front of—if somebody is really interested in making sure they know how I can vote, if I don't go by myself behind something, it's open for abuse. That's all I'm saying. It's open for abuse.

Mr. Lewis Gottheil: Let me take it back. Internet and phone system: There's no inference that anyone will know except the worker. The worker is in control of the code. The worker can make that choice at an appropriate time and place. It gets rid of the prospect of the real-life problem of having a vote in the worker's workplace, sometimes in the cafeteria, sometimes in the conference room. Wouldn't you know it? On a number of occasions that cafeteria or conference room is right next door to the manager's office, right next door to the HR's office.

We have had a number of real-life experiences where the supervisors stand outside the cafeteria with their arms like that and watch the people go in, make a note of who goes to vote and who doesn't, knowing that even that mere presence and the mere actions can have an influence. So Internet voting and phone voting is a step forward.

Let me jump, however, to the reference you made just a moment ago, which is in Bill 79—grant you, a different bill—the issue of card-based certification is put forward. Card-based certification was the way unions could gain collective bargaining representation for over 40 to 45 years. There was a postwar consensus that that was the way to do it in all jurisdictions. It's consistent with the objective that was expressed in the Labour Relations Act for 40 to 45 years, which is that collective bargaining is a desired public policy objective. For 40 to 45 years at least, governments looked favourably upon the exercise of collective bargaining and didn't even take—

The Chair (Mr. Peter Tabuns): Thank you for the presentation.

Mr. Lewis Gottheil: Thank you.

SEIU HEALTHCARE

The Chair (Mr. Peter Tabuns): I'm going on now to SEIU Healthcare Canada, Eoin Callan and Abdullah BaMasoud. Gentlemen, as you know, you have 10 minutes to present. There will be five minutes of questions, and if you would start by giving your names for Hansard.

Mr. Eoin Callan: Good afternoon. My name is Eoin Callan, and I'm joined by my colleague Abdullah BaMasoud. I'd like to start by thanking the committee for the opportunity to appear before you this afternoon.

SEIU Healthcare advocates on behalf of more than 50,000 front-line home care workers and health care workers in Ontario who work across the spectrum of care: hospitals, nursing homes, retirement homes and out in the community providing services to the elderly, the ill and infirm in their home. They're a diverse population. It includes personal support workers, registered practical nurses, RNs, health care aides and a variety of other front-line health care providers.

So, today, we'd like to speak specifically about Ontario's home care sector and the implications for this section of Bill 77. To start with and to provide a little bit of context, as many of you will be aware, home care has been identified as vital to delivering on the government's goals of improved health care performance while constraining expenditure growth in the costly acute and long-term-care sectors. Home care allows people to remain at home and live independently for longer, which is a preferred option of 88% of Ontarians who would prefer to receive care in a home setting.

Home care also has a critical role to play in addressing emergency room wait times and occupancy rates for alternative-level-of-care beds. Yet over the past decade, the home care sector has experienced significant instability and uncertainty. Notably, a report by former Health Minister Elinor Caplan found that home care clients, service providers and front-line staff all identified instability in the sector as disruptive for the provision of quality care. The report by Elinor Caplan also found that home care clients consider continuity of care important—the bond that they form with the caregiver they depend on to come into their home and support them with their most critical and intimate needs.

The concerns around instability and the concerns around continuity of care have peaked at a couple of moments in time over the past decade. In 2003 and 2007, both moments when there was an attempt by government to pursue renewal in the home care system and to initiate a procurement process that would see home care contracts—the contracts that CCACs issue to agencies to deliver services—begin to change hands. Each time that

has occurred, that moment has proved volatile, and indeed politically explosive. Certainly, Minister McMeekin and, the other day, Sophia Aggelonitis, were speaking to the incredibly disruptive effect this transition had in their communities and the way in which it eroded client care and also eroded trust and created significant communication challenges for government in their region.

The reason that this moment of transition of a home care contract from one provider to another is so jolting and disruptive is because what happens at this moment is that every single home care client in a region—an entire riding, and indeed across several ridings—loses their caregiver. They lose their caregiver overnight, and it happens simultaneously for thousands of people. Indeed, at that same moment, every single front-line care provider in that region or front-line personal support worker or homemaker will also be terminated overnight, all at once, with significant costs in terms of severance liabilities.

In a number of studies—for example, a 2009 study—it was found that continuity of care is nearly impossible to sustain in this environment within the current system where you do not have managed transitions when home care contracts change hands. So in 2003 and again in 2007 in the Hamilton area, there was significant public backlash, and we saw hundreds of home care clients, their families and front-line staff come out onto the streets.

This led, in 2007, to the imposition of a moratorium by then-Health Minister George Smitherman. It's important to underline that that moratorium remains in place. It's still with us today, five years later. It has not been possible to renew the home care system. It has not been possible to proceed with procurement or to enter into fresh contracts in that sector to deliver services because of the moratorium that was imposed in 2007 as a result of unmanaged transitions and because that system of unmanaged transitions has yet to be addressed.

Importantly, in the intervening years a number of studies have shown that unmanaged transitions have negatively affected recruitment and retention. They've increased the turnover rate for personal support workers, undermined client care and client satisfaction, and resulted in heightened instability in the sector. An analysis of home care workforce data shows a spike in turnover during those periods when a contract changed hands. And a survey of personal support workers whose client and employment relationships were disrupted by the status quo found that only 38% stayed in the sector. What that means is that 62% of personal support workers are leaving the sector entirely after an unmanaged transition, this at a time when demand for personal support is rising and is forecast to have doubled by 2031, and at a time when the government has identified the goal of providing an additional three million hours of personal support over the next three years.

To address this challenge that has been with us for much of the last decade, we're recommending moving toward a system of managed transitions. A central plank in a system of managed transitions in the home care sector would be captured in the measure in Bill 77 that would extend what's called successor rights specifically to homemaking and personal support services under the Home Care and Community Services Act. That would allow front-line caregivers to stay with the client, for that continuity of care for that client-caregiver relationship to be maintained during that transition period. We'd really like to tease out that particular provision that applies to homemaking and personal support services because of the way in which it would support continuity of care and recruitment and retention of personal support workers and the government's broader health policy goals.

1550

This recommendation has a significant amount of support, including from some surprising quarters. For example, Don Drummond, the TD economist, the former banker, in his recent report, recommended, in recommendation 5-105, that government pursue system transformation in an environment where successor rights were present. Essentially, Drummond dismissed some of the concerns associated with successor rights, saying that they do not prevent necessary change and systemic reform from occurring. To quote him directly, he says, "Successor rights as currently defined do not necessarily limit the right of the government, for legitimate reasons within its purview of responsibility, to engage in system reorganization. Successor rights simply require that the government respect successor rights in doing so."

One of the things that happens when successor rights are in place is that if there's a collective agreement, for the life of that collective agreement—which might be a few months; it might be a year or two—it stays in place during the transition. Drummond notes that inherited agreements do not live forever. These provisions can be accepted initially and bargained differently when they come up for renewal. He underlines the stabilizing role that successor rights play in a transition and the opportunity to make changes going forward, even where successor rights exist.

In the Caplan report, Elinor points out that enhanced continuity of care is vital and she recommends requiring transition planning, both entering and exiting a home care contract, and ensuring better communication to clients and home care workers.

Indeed, we wanted to draw your attention to a submission that the committee will already have received from the DeGroote School of Business. I'll quote from the DeGroote School of Business' submission directly. It recommends that the committee consider—

The Acting Chair (Mr. Bill Walker): Mr. Callan, you have one minute remaining in your presentation.

Mr. Eoin Callan: —extending successor rights to the home care services sector. It suggests that this would support recruitment and retention and provide continuity of care to frail, elderly and sick clients.

If one's wondering why a business school would speak in favour of this measure, the evidence really is in the footnotes, where a series of studies from 2004, 2006, 2007 and 2009 show that there's a strong evidence-based case for this measure.

Thank you.

The Acting Chair (Mr. Bill Walker): Thank you for your presentation, Mr. Callan. We now have up to five minutes for questions, and I'll turn, for this round of questions, to the official opposition. Mr. McDonell?

Mr. Jim McDonell: Thank you, Mr. Callan, for coming. I know the tendency is to think of large companies here, but the majority of companies that we're talking about are very small. You talk about successor rights. If you're talking, in your case, most times—if we go back to the VON, there's a collective agreement. They were taken over by Bayshore; they have a collective agreement.

The issues talked about here aren't so much evident. But I worry about the smaller companies, where, really, we're taking away people's right to actually—the entrepreneurial spirit of getting involved and families taking over businesses because now they may be forced to take on employees. What you're really doing is circumventing the free market system where people are allowed to start up their own businesses, hire their own people. In a lot of cases, it's their family that's starting it. Any comments?

Mr. Eoin Callan: Sure, a couple of comments: I think the concerns that you raise are legitimate. Firstly, I think it is notable that Don Drummond doesn't necessarily agree with that analysis. He has looked at this question and ultimately concluded that it doesn't inhibit entrepreneurial opportunity in a material way; that after the transition period is over, there is ample opportunity for inheritors of services like home care services to pursue independently a labour relations or business strategy that's in keeping with their goals.

The other thing that I think is worth underlining is that—the notion that in the home care sector we're dealing principally with family businesses I'm not sure is well supported by evidence. Indeed, if you were to look at market share—

Mr. Jim McDonell: I'm not talking about home care. This will apply across the board. It applies to home care. I guess my discussion there was that they tend to be bigger companies.

Mr. Eoin Callan: Yes.

Mr. Jim McDonell: So the company coming in also has an equivalent contract somewhere else. I'm talking not so much about them but about the smaller-based companies, where you're talking about—

Mr. Eoin Callan: Outside of the home care sector.

Mr. Jim McDonell: Yes.

Mr. Eoin Callan: So in the home care sector, we're talking principally about large US multinationals like Extendicare, which is based—

Mr. Jim McDonell: It could be anybody, because it is a free system, but anyway—

Mr. Eoin Callan: Well, the evidence suggests that we're talking, in Ontario, in the home care sector, principally about large, fast-growing, for-profit US and publicly listed entities.

The point that you take about the wider application of successor rights, I think, leads us back to the opening remarks, which is that we're here this afternoon to address specifically and exclusively the application of successor rights in the home care sector to personal support and homemaking services. We're not speaking to successor rights beyond that specific example, where a variety of additional issues arise that you've underlined.

Mr. Bill Walker: If I could just take it on from there, I haven't read anything so far, or heard any of the deliberations, so point me out if I'm wrong. If we have someone come in who buys a contract, wins a contract—two points here. They bring their own qualified staff.

Mr. Eoin Callan: Sure.

Mr. Bill Walker: My concern is, we're actually reverse-discriminating against the employees they may bring to a contract. If the successor has first rights, then what about the person who's coming in with the new company, who may be trained in an even higher capacity? Again, we get back to—I think the last person who presented was concerned about the care of the patient. Is there anything in there about that one?

The second piece would be kind of the reverse of that. If a company has employed someone who has been found to still be in the employ of that company but has not provided what I would suggest is a high level of service, the ability to get rid of that employee—because I don't necessarily want to inherit someone who is going to tarnish my image or my business reputation or my service delivery.

Mr. Eoin Callan: I think that both are legitimate concerns, and I think both can be addressed within the context of the specific language around the home care sector in Bill 77. Again, as Don Drummond underlined, after a fairly brief period of transition there is a full opportunity for an incoming provider of services who is acquiring a contract to deal with any staff that they don't feel are providing quality services and, indeed, to replace them with existing staff.

But when you pull back the lens and look at the evidence and look at the studies cited in the submission by the DeGroote School of Business, what you'll find is that in the hypothetical or anecdotal scenario, especially as you look at other industries and other sectors, those kinds of circumstances might arise. But what the evidence shows is that in the home care sector, you're not dealing with an oversupply of qualified professionals. What you're dealing with is an acute shortage of qualified professionals in regions across the province that is getting worse over time, at a point in history when, because of our aging population, demand for personal support services is rising.

What we have in this sector is a turnover problem, a recruitment and retention problem, that is being exacerbated, according to the evidence, by unmanaged transitions—

The Chair (Mr. Peter Tabuns): Mr. Callan, I'm afraid your time is up. Thank you, and my apologies for mispronouncing your name when you came forward.

Mr. Eoin Callan: Not at all. Thanks very much to the committee for the time this afternoon.

UNITED STEELWORKERS, LOCAL 9597

The Chair (Mr. Peter Tabuns): Next up, I call United Steelworkers, Local 9597: Sean O'Connell and Tahir Mufti. Gentlemen, you've been here for a few hours so you know you get 10 minutes to speak, with five minutes of questions. If you'd give your names for Hansard, then we'll start from there.

Mr. Sean O'Connell: Thank you very much. My name is Sean O'Connell. I started working as a security officer just after I left high school. I have worked in different security agencies in the Ottawa area for over 20 years since.

I got active in our union, United Steelworkers, in 1994, and in 2007, I was elected VP of our local union, Local 9597. There are over 2,500 security officers from Windsor to Hawkesbury in our local, working for different security companies. Our sister local, 5296, represents about another 2,000 officers in the GTA.

I now spend much of my time working with our local union, representing our members in collective bargaining and many other workplace issues.

1600

Security officers are sometimes sort of invisible. We are often the people you walk by when you enter the building, when you leave the shopping centre and when you drive into a local factory parking lot. But we perform important and often challenging work. We often work alone, under demanding conditions. We work tough shifts.

Over the last 10 or so years, our union has begun to win some better incomes, benefits and treatment for our members. But lack of successor rights in our sector is a huge issue that is keeping the wages low and constantly causing what we call a race to the bottom.

I am accompanied today by my fellow security officer and union brother Tahir Mufti. You will hear from him next. Here's what happened to Tahir and his co-workers:

The USW has had a province-wide collective agreement with Garda Security for many years. The agreement provides officers with recognition of their length of service with the company and just-cause protection, with a very basic benefits package for their families and small contributions to a pension plan.

Garda officers provided security services at the main provincial courthouse on Elgin Street in Ottawa and were represented by the USW. Their wage rates were a modest $11.50 an hour as of November 2010.

The actual client retaining Garda was CB Richard Ellis, a Los Angeles-based firm that manages the courthouse property for the Ontario government, who, on December 1, 2010, chose Inkas to take over Garda's business to provide security services at the courthouse. Inkas, a non-union company, hired most of the Garda employees working at the court site.

Wage rates remained unchanged. However, Inkas did not provide the security officers with any benefits coverage or pension contributions. As well, all the rights above the minimum in the Employment Standards Act were taken away. Officers lost their benefits and their pension plans and also paid bereavement leave and sick leave. They were reduced from 10 paid holidays to nine, and their vacation entitlement was capped at two weeks.

In an attempt to regain some of what had been taken away from them, the now-Inkas employees signed USW membership cards and won the subsequent representation vote. The USW was certified in January 2011.

Collective bargaining took place; however, Inkas refused to agree to any seniority-based job security rights or any monetary improvements. Conciliation and mediation assistance from the Ministry of Labour proved unsuccessful. The final offer from Inkas was a wage increase of 25 cents, conditional on the workers renouncing their right to union representation.

A strike began on October 3, 2011. Inkas declared that employees would be locked out until they accepted its "offer." Inkas then hired replacement workers to guard the courthouse.

USW filed for first-contract arbitration under section 43 of the OLRA. In January 2012, the Ontario Labour Relations Board ordered an end to the lockout and ordered the parties to submit to binding interest arbitration.

The officers returned to work on February 10, 2012. The parties arranged for a board of arbitration to be constituted. In March, a hearing date of June 4 was set. Almost at the same time, the employer announced that effective April 1, 2012, it would no longer be the employer of the guards and a company called Valguard would become their employer.

USW suspected that Inkas still held the contract for security services and was simply subcontracting to Valguard. The union filed a complaint under sections 1.4 and 69 of the OLRA. The response from Inkas confirmed that it retained the contract for security services at the courthouse while Valguard pays the wages.

In summary, the former Garda security officers and their families have lost their modest benefits, their pension contributions and other basic terms of employment while this new employer remains opposed to a fair collective agreement.

Bill 77 can fix this gaping hole in the OLRA. Thank you very much.

The Chair (Mr. Peter Tabuns): Thank you. Questions here go to the third party. Mr. Natyshak.

Mr. Taras Natyshak: Was there more time on their submission, Chair?

The Chair (Mr. Peter Tabuns): There is.

Mr. Taras Natyshak: And did—

Interjection.

The Chair (Mr. Peter Tabuns): I'm sorry. My apologies.

Mr. Tahir Mufti: My name is Tahir Mufti. I am a security officer and I'm glad to speak to you today.

I think it is important that you hear directly from someone like me, whose working life has been damaged by the lack of successor rights in the contract services sector. I was hired by Garda Security in 2004. Garda

assigned me as part of its group of officers providing security services at various locations and in 2008 assigned me to the site of the Ottawa courthouse in Ottawa.

As a Garda employee, I had a collective agreement between my employer and the United Steelworkers. I made a wage rate of $11.50 per hour. I had some benefits that were very important to me and my family. I worked 24 hours per week at the courthouse site and was assigned to another Garda site as a floater.

As Sean told you, when Inkas Security took over our worksite, we lost so much. Our union was taken from us overnight. We lost all of our benefits, which were not huge in the first place. We lost dental, drug coverage and pension; our vacations and holidays were cut back.

There is no reason that workers like me who work in the contract services sector should not have the same rights that others have in Ontario. When their workplaces are taken over by a non-union company, they keep their collective agreement and their rights. Why do people in my kind of job not have the same rights?

You can help stop this problem. Thank you.

The Chair (Mr. Peter Tabuns): Thank you. Mr. Natyshak.

Mr. Taras Natyshak: Thank you, Mr. O'Connell, Mr. Mufti. Your stories are very poignant as they relate to specifically the successor rights portion of this bill. It highlights, really, the word "fairness" that is built into the title of the bill, because what you're asking for is simply what you bargained for at the beginning. There will be pushback from those on the business side that don't believe in the need for this but I don't understand why, because the nature of business in our economies over hundreds, thousands of years has been that of negotiating, and it will always be that. Whether it's a barter system or the free market, we will negotiate.

What you're asking for and what the bill addresses is simply keeping what you negotiated fairly and protecting that. That's why this committee has heard us use the words "modest, basic, fair reform to the Ontario Labour Relations Act," and that's what I hear in that story.

I'm wondering what your members feel about the need to implement this as quickly as possible. What is the sentiment around successor rights throughout your membership?

Mr. Sean O'Connell: Well, they definitely want it. They want to keep what they already had. I mean, when you're already only making $11.50 an hour, with little benefits and pension—like, when we're talking pension, we're not talking big bucks. We're talking 1% of their gross earnings. If they're making $20,000 a year, that's all of, what, $200 a year for a pension.

This is what they're asking for; this is what they've come to us for. That's the best I can explain that to you now.

1610

Mr. Taras Natyshak: It seems as though the ability for other companies to swoop in and change the terms, although they may be related employers, one holding the contract, the other managing the payment of wages—it seems as though that adds to the disruption of your workplace, maybe even the quality of service that you can provide. If employees aren't certain whether they're going to work tomorrow, you wonder how they go about—if they understand they might have to be searching for a job the very next day, their level of commitment to the workplace can't be a solid commitment. I wonder if this will go a long way, and specifically in the security field, in terms of having folks feel as though their work is valued.

Mr. Sean O'Connell: Most definitely. It would certainly help their morale, knowing that when they go to work at night, they're going to be paid, they're going to be looked after if something should happen medical-wise, stuff like that.

Mr. Taras Natyshak: We have a security force here that are special constables, who guard us all and guard the building, the Legislature. They're covered under the Ontario public service and they're paid decently, because they provide a good service. I'm certain that they would relate to the job that you do and the need to actually be paid well and to have some job security. So I think this is what the provision within the bill does. It respects those industries that are vulnerable to outsourcing. We appreciate your speaking in support and hope that it adds to the security of your security forces.

Mr. Sean O'Connell: Thank you very much.

Mr. Taras Natyshak: Any other comments, if the Chair has any seconds on the clock? I don't know.

The Chair (Mr. Peter Tabuns): You have a little time. Mr. Coteau would like to ask a question, if he could.

Mr. Taras Natyshak: Certainly. We'll pass it along.

Mr. Michael Coteau: Just for clarification: So you're working for a company, and then the company is kind of sold. The same company uses another company to manage the payroll or manage the employees, but the same person or the same shareholders are making the profit from the actual company? Nothing's changed that way?

Mr. Sean O'Connell: Correct. In the case that's going on right now, in regards to my brother here—

Mr. Michael Coteau: So it's the same people—

Mr. Sean O'Connell: Same people.

Mr. Michael Coteau: —but they've figured out a system to take advantage.

Mr. Sean O'Connell: Basically, they just hired a cheque signer; that's it. That's the best way I can put it.

Mr. Michael Coteau: So would we have to make some amendments to the actual bill to kind of tap into that area too? That's the question. I don't know if—

Mr. Taras Natyshak: There are different sectors—you've heard submissions today that there are amendments specifically to that clause that would broaden the scope. But as it's written in the bill, it covers the contract sector. There are other definitions of that that may be included, but I think as it's written, it would cover the security and contract sector in security.

Mr. Michael Coteau: Thank you for sharing your story here today. It was a very valuable story to hear, and I appreciate you taking your time to come here.

Mr. Sean O'Connell: Thank you very much.

Mr. Bill Walker: Time's up, Mr. Chair?

The Chair (Mr. Peter Tabuns): Yes, it is. Sorry.

Thank you very much for your presentation. We appreciate it.

INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 793

The Chair (Mr. Peter Tabuns): Next up: International Union of Operating Engineers, Local 793. Is there a representative here?

Good afternoon. You have 10 minutes to present. We'll go to five minutes of questions. If we could have your names for Hansard, and please begin.

Mr. Ken Lew: Ken Lew, labour relations manager for Local 793. With me today are Melissa Atkins Mahaney, in-house legal counsel, and Josh Mandryk, law student.

The Chair (Mr. Peter Tabuns): Very good. Please.

Mr. Ken Lew: Thank you for the opportunity to speak here today and to speak in favour of Bill 77. The operating engineers, Local 793, for those who are not familiar, are a 11,000-member-strong provincial builder trade union. Our members, quite literally, help build Ontario. Whether we're talking about the roads, sewers, buildings of all natures, hospitals, resources, solar farms, our members are the heavy equipment operators—cranes, bulldozers, excavating equipment—to help bring these projects from level ground to providing a very meaningful benefit to Ontarians.

We are here today, again, to speak in favour of Bill 77. This morning, as we were preparing, I noticed on the list of presenters that we are the only construction-specific presenter before you today, and I think we'll add a very unique perspective to the discussion. We'll get right into it.

I'll pass it over to Melissa, who will take you through our reasons. There's a handout for you to follow as well. Thank you.

Ms. Melissa Atkins: Again, thank you very much for providing us with an opportunity to speak today. We feel that we bring a bit of a unique spin to all of this, being the only construction trade union making a presentation, and we've provided you with a relatively detailed brief of our view of why the Bill 77 amendments are, in our view, very positive steps forward. We'll allow you to read that at your leisure, but there a couple of points that we want to address today that are specific to our industry and that we hope you take into consideration.

With respect to the construction industry, there are unique realities that face the construction industry that don't face other sectors, whether industrial or otherwise. Most of this stems from the fact that the employment relationships, to a large extent, function in a different sort of way, not in the traditional employer-employee relationship that many of us are used to. The nature of the employment is oftentimes seasonal, it can be short-term, and the workforce, to a large extent, is quite transient because they're required to move to wherever the work is located. That can be in and around the GTA, as we see lots of construction happening today, but it can also be in more remote areas of the province and can last for short periods of time or long periods of time. People move around very, very frequently.

The reality of all of this means that, in our experience, employers, particularly with respect to what happens when organizing efforts on behalf of unions start to take place, are oftentimes able to utilize this mobility of the workforce to their advantage in a way that assists in defeating organizing attempts and the desires of employees to engage a union to represent their rights.

Employees, for the most part, if they're viewed as being favourable to having a union come in—all an employer needs to do is actually move the employee to a different job site with oftentimes very compelling business-related reasons as to why they're going to move them, whether or not that's the true motivation behind it. The reality is that employees—because of the nature of the work and because when it comes to seasonal considerations and the fact that employers frequently have to lay off people for lack of work, whether it's on a particular project or, in a broader sense, the workforce is reducing—without recall and seniority rights, have very little protection, and the unions really have their hands tied when it comes to actually being able to do something to step in and help these employees.

This problem is only compounded by the fact that construction employees are excluded from the termination and severance provisions under the Employment Standards Act. So where an employer—for the most part, a lot of them aren't so apparent and simply terminate employees. While that is the case some of the time, more often the case is that we are faced with employees who are handed a record of employment that says they're laid off due to lack of work. Without really compelling evidence, which is oftentimes, as we all know, very difficult to put your hands on, there's not a lot that we as a union can actually do. So it's with this backdrop that we fully support the amendments that Bill 77 is proposing to usher in. Specific to us, I'd like to speak to two of those amendments briefly.

With respect to the proposed amendments to section 98 of the act, the interim reinstatement amendments, Local 793 strongly supports any measures that will help facilitate interim reinstatement and make this more expeditious remedy for employees who we feel are improperly removed from the workplace, whether that means through termination or improper layoffs, as a result of union-organizing efforts.

The current formulation of section 98 places significant hurdles on construction trade units in actually getting this remedy, the reason being that right now the threshold requires that unions prove that there is irreparable harm in order for you to actully have an employee reinstated. While in some cases the facts lend themselves quite easily to proving irreparable harm, the board has consistently held that the fact that an employee may lose significant wages isn't sufficient to meet that threshold.

The Chair (Mr. Peter Tabuns): Excuse me, please. I think that's a five-minute bell.

Interjection.

The Chair (Mr. Peter Tabuns): It's five? Okay. We will recess for 10 minutes. We have to go down the hall for a vote.

The committee recessed from 1622 to 1637.

The Chair (Mr. Peter Tabuns): Good. That had the desired impact.

Sorry to have left you that way. We're back. If you would proceed.

Ms. Melissa Atkins: Great. Thank you.

As I was saying prior to our break, Local 793 supports the removal of the requirement that interim relief can only be granted where a union is able to prove that irreparable harm will flow to the employee. The proposed amendments instead shift the focus from irreparable harm to the employee to whether or not it's irreparable harm to the employer. There's a presumption that reinstatement will happen unless it would cause irreparable harm to the employer. In our view, this shift better recognizes the tremendous economic impact that a termination can have on an employee, not only in the short term but in the long term, on their career and on their families. This is specifically even more damaging to employees now, when we have such high debt-to-income ratios in the province. As we know, many employees live paycheque to paycheque, so even potentially being off work for a week, two weeks, a month—all of a sudden, the impact can be much greater than one would necessarily expect.

The fact that in the construction industry, with the seasonal nature of the work, many of these employees are frequently also utilizing employment insurance in the periods of layoff, compounds the issue that if they're terminated in the course of an organizing drive, oftentimes they've already exhausted their EI entitlements. We face this routinely. Employees come to us during organizing drives and they express this fear, saying, "If I get terminated, I have no net left. What am I supposed to do to feed my family? I've got children to put through school. How can I justify taking that risk of bringing a union in, even though if it's successful, we know in the long term that it's going to mean greater wages, better pension, better benefits, if there's no guarantee of where I'm going to wind up at the end of the day? I've got my family to support."

In our view, these modest changes to section 98 of the Labour Relations Act are exactly what's needed to help instill that confidence back into the system.

The Chair (Mr. Peter Tabuns): You have a minute left.

Ms. Melissa Atkins: I'll briefly comment on the first-contract arbitration provisions. Again, in our view, this modest shift, where we don't have to go through potentially the same long process of litigation, which is effectively what happens under the current regime, because—as opposed to having automatic access, which is what employees and unions used to have, we now have a process where you have to essentially prove that the employer has done things to intentionally stymie the process of collective bargaining to get to that hurdle.

In our view, if you can completely sidestep that process and instead work towards the resolution phase of things as opposed to more pointing of fingers as to who has done what and why you haven't been successful, that can only be a positive move forward for not only unions and employees, but for employers as well.

Thank you.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the government. Ms. MacCharles.

Ms. Tracy MacCharles: Thank you to all of you for being here. It's great to hear input from your sector. I certainly hope to see you out in my riding of Pickering–Scarborough East when the 407 is constructed—the publicly owned part of the 407. Hopefully, we'll see your folks out there.

I don't know if my question is directly about the bill. You talked, before we broke, about the seasonal nature of workers, the members you represent, and the little notice on termination.

I just want to get a sense from a collective bargaining point of view. How do we do in negotiations around this? Are there employers that do a better job on this than others? Is this a Bill 77 issue, or is this a collective bargaining issue, the notice issue?

Ms. Melissa Atkins: Well, I'll speak to that, if that's okay.

Ms. Tracy MacCharles: And I'm asking because I don't know.

Ms. Melissa Atkins: I think that it's both. I think Bill 77 is an effective step forward in that regard, and it basically, in our view, helps minimize some of those negative impacts that particularly disadvantage construction employees. It's not a total resolution to all of the issues that the construction employees face, but it's certainly a very positive step in the right direction.

To a large extent, if we can't get to the point where we can at least negotiate with an employer, then these protections have little relevance to us. I think that Bill 77 gets us to the point where there's a better likelihood of at least getting to the table and being able to negotiate those terms and conditions which are essential to these employees. With these mechanisms in place, not only once you've established bargaining rights, it allows you to actually arrive at that first collective agreement, which is another important aspect of this bill. So I think it's part and parcel of all of these factors together, but definitely a step in the right direction.

Ms. Tracy MacCharles: We've heard from quite a few people on the proposed expanded first-contract arbitration provisions. I'm interested in your thoughts on—if that was to go forward, does it keep parties sufficiently motivated to bargain hard, as they say?

Ms. Melissa Atkins: I think it absolutely does. The reality is that it's in everyone's best interests to arrive at a collective agreement relatively expeditiously. We know that employers in this province, particularly in the case where they're trying to engage in negotiations during the

busiest construction times of the year—spring, summer, fall. There's a real motivation to get things done quickly for a majority of employers who aren't so acrimonious to this relationship.

The reality is that with any sort of protracted litigation and even the prospect of going to first-contract arbitration, there's a lot of preparation involved, a lot of costs involved. If everyone is working towards the angle which is—you know, in an ideal world that's what's going to happen. You can avoid a lot of those costs and the time commitments etc. that would otherwise be present to still engage in a course of litigation. It's just, is there another step that happens before you get to that stage of the litigation—which is what the Bill 77 amendments effectively remove. So unions aren't going to have to file "failure of duty to bargain in good faith" complaints, which we know take up a lot of time at the Labour Relations Board, involve lots of expense to taxpayers.

Finally, in applications under 43, where, again, the focus is about showing that an employer has engaged in—whether it's unlawful conduct or failing to make expeditious efforts to conclude a collective agreement. At the end of the day, the parties are going to get to arbitration if they're successful.

It's just, is it necessary to create further tensions between the parties? Because once they do have that collective agreement in place, they have to have an ongoing relationship with one another, and if that relationship is already tarnished from the outset—

The Chair (Mr. Peter Tabuns): Thank you for your presentation. I'm sorry; we've come to the end of the time. Thank you very much.

HOSPITALITY AND SERVICE TRADES UNION, LOCAL 261

The Chair (Mr. Peter Tabuns): I now call on Daniel Bastien, with the Hospitality and Service Trades Union, Local 261.

Daniel, good day. Good to see you again. As you know, you have 10 minutes to speak, five minutes for questions. Please give your name for Hansard. It's good to see you here.

Mr. Daniel Bastien: Thank you. My name is Daniel Bastien. Good morning—sorry; good afternoon.

The Chair (Mr. Peter Tabuns): We feel the same way.

Mr. Daniel Bastien: Members of the Standing Committee on Regulations and Private Bills, thank you for the opportunity to speak today. My name is Daniel Bastien, and I'm a union organizer with UNITE HERE and I'm here on behalf of our Ottawa local, HSTU, Local 261.

I have been involved in a union organizing drive at three Novotel hotels in Ontario, including the Novotel Ottawa. Before I was a union organizer, I was a worker at the Novotel in North York. I worked as a waiter. I was on the organizing committee.

In the face of our organizing drive, the company has waged a fierce anti-union campaign leading to charges being filed at the labour board. One of the major charges that the union filed against the company concerned the termination of a worker at the Novotel Ottawa after he publicly expressed his support for the union. The worker was fired in March 2010, and the union applied for an interim reinstatement order. Unfortunately, the vote took place before the interim reinstatement could be ordered, and that issue has now been folded into the larger case. This case is still being heard at the labour board more than two years after he was terminated. The earliest we can expect a decision and some measure of justice is late 2013, more than three years after the vote.

Not surprisingly, I'm here today to discuss the need for increased labour board powers to make interim orders for reinstatement. It's important to keep in mind that beneath the technical-sounding legislative language, there are real people whose lives are deeply affected by these issues.

The worker I mentioned was terminated in the midst of a union organizing drive. You can imagine the message this sent. If you lived paycheque to paycheque and if you thought you might lose your job if you were seen as a union supporter, what would you do? How is that a fair vote?

The fact that this government introduced interim reinstatement is an important first step. Now we have to make sure that it serves its intended purpose. The labour board may well decide the worker was targeted due to his support for a union. So much damage has already been done to him and to his family, his relationships and all the workers who witnessed his case. This is the human story behind the proposed interim reinstatement language.

When workers publicly express their support for a union, we must have immediate and decisive protection from employer intimidation and reprisal. If the union and the company have different interpretations of what happened, it can wait to be sorted out after the vote. Interim reinstatement has to be uncomplicated and it has to be fast if workers are to feel some protection during the voting process.

For these and so many more reasons, I urge you to support Bill 77. Thank you for your time.

The Chair (Mr. Peter Tabuns): Thank you very much. Questions go to the official opposition. Mr. McDonell.

Mr. Jim McDonell: Thank you. In this case here that you're talking about, what powers are you looking at bringing forth or what way do you see the need for this to happen?

Mr. Daniel Bastien: Reinstatement has to be quick to work. If you're in an organizing drive and workers are trying to express their democratic right to form a union, and if one of the most visible leaders of the union, which this person was, gets fired—if it takes them three years to get their job back, that has a serious chilling effect on the organizing, and I think it effectively undermines people's democratic right to organize. I think for interim reinstatements to be effective, they have to be quick—if that helps.

Mr. Jim McDonell: What's your role in this? You say—are you from Toronto? You've worked on three drives. I'm just wondering what your involvement with the whole organization is.

Mr. Daniel Bastien: I am from Toronto, originally. I spent four years working as a waiter and room service guy at the Novotel hotel in North York. I pretty quickly got involved with the union drive there, for various reasons—it's just what I believe in. I was on the organizing committee. I was one of the more prominent union organizers inside.

As part of the campaign, the union was also organizing the Novotel in Ottawa and Mississauga, so I did go to both of those places to help out during crisis periods, to go and talk to those workers.

As of about some point in April, I was asked by the union to quit the hotel and become a full-time organizer, so now I'm just a full-time organizer with UNITE HERE.

Mr. Bill Walker: Just a point of clarification: I'm reading the front of your display, and it says that Accor agrees that they will not inhibit—I may be using my own words, but they acknowledge the right of employees to affiliate with the union of their choice and undertake not to oppose efforts to unionize their employees.

1650

Mr. Daniel Bastien: Yes.

Mr. Bill Walker: This is a mixed message.

Mr. Daniel Bastien: I agree; it's a bit of a problem. Accor international, or whatever it's called, the global form of this hotel company, signed an agreement with the IUF, which is the—it partly stands for the international union of food and a whole bunch of other things. It's basically the umbrella organization for agricultural, food and hospitality-related unions. So they signed an agreement with them, a trade union rights agreement, I believe, in the mid-90s, and they said they would not oppose any efforts to unionize anywhere in the world. I think their behaviour in Ontario demonstrates that their actual practices are very different from what they agreed to.

Mr. Bill Walker: So have you explored, through the Employment Standards Act, your legal right to challenge that?

Mr. Daniel Bastien: I can't speak to that directly. We're going through the OLRB mostly. I don't think that the ESA would be particularly helpful in this case.

Mr. Bill Walker: My concern is—again, I'm trying to draw the parallel or the challenge that you have to go to the ESA. If there are laws in place that protect people that are non-unionized and you're working in a non-unionized environment, why would you not explore that? Why are you so pro to form a union as opposed to utilizing the tools that are in existence? We heard earlier in deputations that someone else did challenge, and they won their—

Mr. Daniel Bastien: Well, I'm not here to speak on the Employment Standards Act and its effectiveness. That's definitely a whole topic of conversation. I'm here to talk about specifically Bill 77 and reinstatement of fired workers. So my perspective is that, sure, we have the Employment Standards Act; it's good that it's there. However, we do have a democratic right to form unions, and the laws, I believe, do not adequately protect that.

Mr. Bill Walker: If you can respect where people like myself, who are relatively new—I'm looking at a lot of different areas. I respect the thought process that there are really five key tenets of Bill 77. But there are further ramifications once that union is formed, which we're not discussing here today. That's what a lot of my constituents will talk to me about. One of them that we've talked about, certainly, is that ability to pay. It may not be quite as applicable in your industry, but if someone comes in and bids on a contract, for example, for a fixed-price contract over a three- or five-year period, and then a year later people decide to unionize—which is going to incur increased costs for wages, benefits and whatever entitlements they're able to negotiate—that employer now does not have the ability to pay, necessarily, because they didn't see that coming, they didn't know that was going on. If the margins are small, they have huge concerns: "Now I'm in a bind. I signed a contract in good faith, at X dollars. Someone is going to now unionize and increase my cost."

Bill 77 doesn't get into that piece, but we have to look at that—or I certainly have to look at that so I'm well-rounded in my thought process before I would be able to say aye or nay. Those are concerns that are legitimately being brought to me by the people on the other side, who are the employers paying.

Mr. Daniel Bastien: I'm sorry, was there a question?

Mr. Bill Walker: Well, I'm again trying to ascertain—you want to stick just to Bill 77, but part of my questioning is so that I can get the broader perspective. There are employment standards in place, they're legal; other people have chosen to utilize those and have won, as we've heard in this hearing today. You virtually are saying either you won't or you're not going to go there; it's only union. So I was trying to figure out, if you haven't explored that, why you wouldn't. If you have explored that, are there deficiencies, are there things that you can provide to me so that I understand that better?

Mr. Daniel Bastien: I'm trying to think how to formulate my thoughts.

Mr. Bill Walker: If I can ask in another way—

The Chair (Mr. Peter Tabuns): Mr. Walker, Mr. Bastien, I'm sorry; you're out of time. Thank you very much.

Mr. Bill Walker: Thank you.

Mr. Daniel Bastien: Thank you.

UNITED FOOD AND COMMERCIAL WORKERS CANADA

The Chair (Mr. Peter Tabuns): I'm calling the United Food and Commercial Workers. I have Kevin Shimmin, Jorlin Rafearo and Jodie Pratt. My apologies for any bad pronunciations there. You have 10 minutes to speak, five minutes of questions. If you could introduce yourselves for Hansard and then begin.

Mr. Kevin Shimmin: Thanks a lot, Peter, and good afternoon. We have to apologize. Jodie was able to join us, but Jorlin wasn't, so I'm going to briefly summarize a few points that we're concerned about, and Jodie's going to share her story about her experiences going through the organizing process.

On behalf of 240,000 members across Canada, including 120,000 in Ontario, I welcome the opportunity to comment on Bill 77.

Freedom of association and the right to join a union without fear of reprisal is a critical condition, as we all know, for a fair and democratic society. We believe that Bill 77 takes a modest yet important step in protecting these rights.

Our presentation is on behalf of our members—your neighbours, your constituents. The majority of our membership is women. More than 30% of our members are below the age of 29, and many of our members are new immigrants. These are the people, the vast majority of Ontario, who need and deserve the proposed improvements in Bill 77.

I'll quickly focus on three aspects of the bill pertaining to the organizing process itself.

First, the current practice of requiring an employer to provide an employee list only two days prior to a certification vote places Ontario's workers at a severe disadvantage. It is a process that all too often we see employers intentionally abuse, to stop workers from voicing their decision freely. It also allows employers to significantly undermine the authority of the labour board itself.

Bill 77 will permit a union to ask the labour board to direct an employer to provide a list of employees when a threshold of 20% of workers have expressed a desire to form a union. This proposal will bring the voting procedure in line with general democratic procedures for provincial and federal elections. In fact, the 20% threshold is much higher than the Election Act requires.

Second, today workers in Ontario have many rights on paper but in practice, these are not being implemented. Time and again, employers discipline, discharge and discriminate against people who exercise their basic rights at work. The message sent to all workers is that an employer can fire anyone for trying to join a union. The economic hardship and trauma experienced by workers who have lost their jobs simply because they engaged in collective action cannot be understated.

Bill 77 proposes that workers who have been discriminated against can be immediately reinstated, pending the outcome of a hearing. This improvement will send a clear message to the people of Ontario that workers do have fundamental rights and that the government is prepared to protect them.

Third, unlike municipal, provincial and federal elections, the union certification process in Ontario is strictly controlled by one party, and that's the employer. Placing a ballot box outside the manager's office, where supervisors can freely line up and intimidate people, is certainly not a democratic process. Like government elections, it is imperative that we conduct certification votes in clearly neutral locations, and we must consider off-site locations that are agreed to by workers and their representatives. Bill 77 makes these positive changes possible.

I don't want to speak too long, because I think it's critical for you to hear directly from workers who have experienced the intimidation and the discrimination which currently plagues the organizing environment. It is their voices that matter most, as you consider the benefits of Bill 77, so please listen carefully.

I would like to introduce to you Jodie Pratt.

Ms. Jodie Pratt: Hi, everyone. My name is Jodie Pratt. I'm a single mother. I work at ICJ, which is a co-packer for Minute Maid. We make juice.

I worked there. I was very well liked. I was a very good employee. I was complimented many times about my work performance.

Just this past Good Friday, I realized that my employer does not pay properly under the ESA. They employ about 90% new immigrants; this is their first job. I contacted the union, with Amy, to get some help with this issue and felt that these people needed to be protected. If you question my employer in any way, you will be fired.

1700

When I contacted them, we tried to organize a union. I met with Amy. Everything was great. We went in there. We had a positive attitude. Since then, I've been fired. I was brought back on an interim basis after three weeks. This was devastating to my family. Sorry. It's hard.

Since I've been back, my employer intimidates me every day. Every day, I take lunch with three management staff who stand there with their arms folded looking at me. Every day they ask me—they intimidate me every day.

I had access to the building. I no longer have access to the building. My access card works at 9 when I'm to start work at 7. They found out through—they asked—I'm sorry. I'm very nervous.

The Chair (Mr. Peter Tabuns): That's all right. Just take your time and be calm.

Ms. Jodie Pratt: They put a headhunt out for all of us. They asked supervisors to ask other employees who was signing union cards. Seven of us were fired. They found out. They offered bribes to them, increased wages to people who were—what do you call them?

Interjection.

Ms. Jodie Pratt: Temporary employment people. They were offered permanent positions and gained permanent positions if they told which people were signing union cards.

Since I was fired and brought back, it's put such a chill into the place. Nobody will talk to me. I was probably one of the most popular people at the workplace; I was very outgoing. It's not like that anymore.

So it's constant harassment every day, even from upper management. I was told by my supervisor that I was fired for union activity. That was clearly stated. We have filed charges with the union board, and we'll see in August what happens. That's all I have to say.

The Chair (Mr. Peter Tabuns): Okay. Did you have any more that you wanted to add?

Mr. Kevin Shimmin: No, I can't really add anything to Jodie's story. This is something that our union experiences every day. Most of the people we organize are in non-standard work, so part-time, very insecure, low wages. This is all too common a practice in the current environment, where people can very easily be terminated for trying to organize a union.

With the list, Jodie mentioned to me on the way here, as well, that if we were able to have a clear list that we could agree to on who actually works there, then it would be much easier to find out who supports the union and who is against the union. But with the lists in Ontario, all too often people are added to the list, people who work there are not put on the list, and combined, you can see it's a very undemocratic process and very intimidating for many workers.

Ms. Jodie Pratt: My workplace uses temporary workers. The agency they use is actually the former plant manager's temporary agency. They literally recycle employees there. Every two weeks, there are new temporary employees that come. There's no job security.

The Chair (Mr. Peter Tabuns): Okay. I thank you for that presentation. Mr. Natyshak from the third party has the questions.

Mr. Taras Natyshak: Thank you, Kevin. Thank you, Jodie. Thank you for your courage, not only to appear here today before our committee, but to stand up for your fellow co-workers and try to better your working conditions for not only yourself but for those you work with. Your story is compelling. It's really the reason why some of the provisions—well, all the provisions—are built into this bill: to add some fairness, add some protection into our labour relations act.

It's compelling not only to me, but I hope it compels—I think it does. You're our last deputant today, if I'm not mistaken, Chair. I would also say that about 100% of our deputants today spoke in favour of this bill, which I think is maybe a record, but your story maybe puts a real, hard emphasis on why we need to be compelled to stand up and to ensure that that type of scenario doesn't play out. We think we live in such a modern society, yet when that can happen to someone who obviously was a good, productive worker—you enjoyed your workplace; you were just looking for a little bit more fairness—I think we've got more to do to bring us to a modern state. I'm wondering what specific provisions—one of the provisions here is the off-site voting for certification. Knowing that that is available for you as a worker, knowing that you can go off-site to a neutral site and vote to certify your workplace, do you think that just knowing that that exists would have avoided this scenario playing out?

Ms. Jodie Pratt: I do, a bit. I definitely love that aspect, but I think the initial employee list is probably the most crucial and best thing that could happen. We need that list. Obviously, there's tons of different avenues that they can take to use temporary employees and then replace those temporary employees so you actually don't ever really know who's working there on each shift. Once I started the union, I wasn't allowed in there. The second I would, the supervisor would walk me to the punch clock and walk me out. So there was no time to find out which employees were actually temporary workers or which employees were actually ICJ co-packer Minute Maid workers.

Mr. Taras Natyshak: Many of the deputations today spoke about the relation between our democratic system of voting at the federal, provincial and municipal levels and this system that we're proposing today. As candidates, we all get a list of every member of our community's names, addresses and phone numbers immediately upon being certified as a candidate. I don't know why that can't be the same process in this circumstance when we're talking about individuals' right that exists to bargain collectively. I think that you hit the nail on the head in terms of its importance in bringing some fairness. I'm hopeful that, again, your story compels us to move that piece forward. Any more comments you'd like to add, if the Chair has any quick seconds on the clock?

The Chair (Mr. Peter Tabuns): There is time for just one quick question. Mr. Dhillon?

Mr. Vic Dhillon: Thank you very much, Jodie, for your courage to come here and tell your story. I'm very familiar with the type of employers that, as you said, recycle employees, that bring in new temporary workers, and that pull for that employee to become permanent may just outweigh his moral thinking because of the wages that people earn as temporary employees. I've done quite a bit of work in this area, and one of the most unfortunate parts is that the temporary employees are usually new immigrants and they don't come forward. We do have laws and rules with respect to helping them with the situations that you've described, but it's just unfortunate that they don't come forward. I've gone to various ethnic communities in various ways to advise people that there are rules: "Tell us your story. There is a remedy to the abuse that you're facing." So I just wanted to say thanks for coming.

The Chair (Mr. Peter Tabuns): Mr. Dhillon, thank you for that.

We've now come to the end of our agenda. This meeting concludes. The committee is adjourned. Thank you all.

The committee adjourned at 1710.

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