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Bill 7: Unfavourable for Manitoban Workers

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On June 15 the new Manitoba government introduced Bill 7, *The Labour Relations Amendment Act*, which aims to eliminate the so-called “card-check” system of union certification currently used in Manitoba. Bill 7 would mandate secret-ballot votes as the only means of union certification. Sounds fair, doesn’t it? Premier Pallister is banking on Manitobans thinking so. The Bill has been pitched as a means to make union certification more democratic—a clearer reflection of the will of workers. It is, in fact, anything but. It is an assault on unions, plain and simple, and will negatively affect all working Manitobans.

Not everyone knows what card-check is, or how union certification takes place under the existing Labour Relations Act (LRA). Under the current LRA, if 65 percent of workers sign a union membership card, the Labour Board, after ensuring that all other aspects of the law have been upheld, will certify the union as the official bargaining agent. If 40-65 percent signed, then a secret-ballot is needed to certify. So, in cases where there is any ambiguity about the will of the workers—where the number of signed membership cards make it a “close call,” we already have secret-ballot votes. The 65 percent threshold in Manitoba is the most demanding in the country among provinces that have card-check certification. It is a very clear expression of the will of a super-majority of workers. Bill 7 scraps the fast-track certification enabled by a 65 percent card-check, and forces all certification to take place through secret-ballot votes.

The imposition of a secret-ballot vote as the sole means of union certification certainly sounds fair and democratic. After all, don’t we insist on the secret ballot for elections? Indeed. In a system in which we can all expect to cast our votes free from fraud, intimidation, and coercion, secret-ballots work well. When most Canadians walk down the street to their polling station, they don’t expect to be harassed or threatened into voting a particular way by anybody in authority. Nobody suggests they will lose their job if they vote for one candidate over another. When these kinds of things do happen in elections—even those with a secret-ballot, we are quick to call the legitimacy of the process into question.

Unfortunately, workplaces aren’t democratic. They are, in the words of Yanis Varoufakis, “tiny Soviet Unions.” There is a rigid hierarchy of power stacked on the side of the employer. Employees can, in fact, expect to be intimidated and coerced by the only relevant authority present. We need not speculate on this. Just last year, to take one recent example, when workers at a Winnipeg Tim Horton’s outlet started talking about unionization, their boss threatened to close the store or take away employee benefits. (WFP, 06/11/2015 “Portage Avenue Tim Horton’s Becomes Unionized.”)

The research on how the removal of card-check has played out in other Canadian provinces also shows the power of employers to intervene in certification.

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Several studies have shown that when card-check is replaced with mandatory votes, unionization rates suffer dramatically. For example, using a dataset of 6,500 private-sector unionization drives, Chris Riddell concludes that when mandatory voting replaced card-check in 1984, success rates fell by 19 percent. When card-check was reinstated in 1993, they bounced back by the same percentage. According to labour researcher Chris Riddell, “the results indicate that the mandatory election law can account for virtually the entire decline. In addition, the findings suggest that management opposition was twice as effective under elections as under card-checks.”

Research from BC and Ontario also shows that the more time that elapses prior to a vote, during which employers engage in a number of intimidation strategies, the less likely is eventual certification. If the government pushes this misguided Bill into law, it must take strong measures to ensure that certification votes are held within a very short timeline. There are timelines in the law, but they are long (seven business days) and frequently extended by the Labour Board. Minimizing the room employers have to engage in the anti-union intimidation and coercion that mandatory voting laws encourage is an absolute minimum requirement.

Bill 7 is bad news for workers seeking to unionize, and for all Manitobans concerned about justice and inequality. Unionization has a very clear empirical link to lower inequality. While many

have focused on collective bargaining’s impact on wage inequality, unions have been pivotal in winning social goods for all of us—including things like universal franchise, pensions, and weekends. Jacob Hacker and Paul Pierson (2010) point out that “the political consequences of union power are difficult to exaggerate. Social scientists have consistently shown that the strength of organized labor has a very large impact on the development of social policies across nations. Strong labor unions are closely associated with low levels of inequality and more generous social programs.” In other words, union wins are, in the long run, wins for most of us.

Bill 7, while being advanced under the cloak of democracy, will have the result of further skewing an already-imbalanced relationship of power that favours employers over workers. The fairness of a secret ballot election requires conditions that are absent in the context of union certification. Bill 7 will limit, not increase, workers’ freedom to choose how they are represented in their workplace. Any other claim represents a profound distortion of how decisions are made on the job.

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References available upon request.

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