

THE TYRANNY of the Status Quo

BY BILL STEWART

Employee-employer relationships continue to evolve on principles of co-operation and mutual benefit. Why then, does government legislation continue to force union power on workers?

CANADIAN PERCEPTIONS OF THE SOCIAL and economic importance of unions, particularly in private sector settings, have changed dramatically. Yet, protecting union interests, at the expense of individual rights and freedoms, remains paramount in Canadian social and economic policy. Perhaps nowhere is this more evident than the 2001 Supreme Court decision upholding Quebec's mandatory union membership requirement for construction workers, even though it violated the Charter of Rights and Freedoms.

In December 2004, Toronto-based *Financial Post* editor-in-chief, Terence Corcoran was interviewed about the changing attitudes towards unions and challenges facing Canada's labour movement. "A voluntary association of people is perfectly fine. It's the mandatory element that undermines the whole principle of the benefits of association," he said. "It's

the forced, mandatory element of it that locks the place down and impedes progress." When asked why government policies continue promoting this most objectionable coercive aspect of forced association, Corcoran explained: "There really is a tyranny of the status quo."

Initially coined by Nobel Economics Laureate Milton Friedman in his 1984 book *Tyranny of the Status Quo*, Friedman theorized about an "Iron Triangle" composed of "the direct beneficiaries of laws, the bureaucrats who thrive on them and the politicians who seek votes." Friedman argued this triad continues to resist change – even positive change in the broad public interest – if those in the triad believe their self-interest or comfort levels might be altered. Consequently, the status quo prevails – not necessarily because it should – but because it is less threatening than the uncertainty that change may bring.

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However, the status quo vis-a-vis attitudes towards unions are changing. In fact, the perceived importance of unions in Canada is steadily declining. The shift is evident in broadly-based surveys of both employees and the general public and more pointedly in reduced union membership levels at construction sites, shop floors and offices across the nation. Given the changing status quo, how long will it take governments to rectify labour laws that are biased toward unions and embrace the reality of modern labour practices in Canada?

Converging Employer-Employee Interests

Corcoran noted that various economic changes have “led to unions losing their grip on the corporate workforce.” At the height of union power in the 1970s to mid-’80s, the proportion of people working in non-agricultural industries holding memberships fluttered between 35% and 40%. Today, Statistics Canada reports only 30% of working Canadians hold a union card. The public sector has the highest union density – at 72%. Correspondingly, private sector workplaces remain overwhelmingly union-free, with density falling from 28% in 1984 to only 18% in 2002.

While varying reasons are offered to explain the trend, it is undeniable that the evolving nature of employer-employee relationships is a major factor. Simply put, employers and employees now seem less inclined to view one another as mutually exclusive entities working at cross-purposes. This is particularly evident in private sector settings where more open and competitive markets demanded greater productivity from more efficiently deployed human resources. This has necessitated greater degrees of inter-dependency between employers and employees. Forced by economic and social necessity to recognize inter-dependency, it has become increasingly difficult for either group to operate in isolation of the other and view the other as the enemy.

The development is a bane for unionists desperately clinging to the belief that an abiding “class struggle” between working and owning “classes” remains the raison



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d'être for the labour movement. Adherents of this doctrine continue to foment dissent and division, believing employers and employees hold profoundly disparate and divergent interests. These unionists are finding, however, that today's employees do not consider unions the most effective institutional instruments for advancing or protecting workplace interests. Extended to the general public, confederated unions are not generally viewed as credible institutions for effecting changes that are either practical or in the broad public interest.

Diverging Opinions on Union Militancy

When casually discussing unions, most Canadians have likely heard: “Unions historically had their place and purpose, but they went too far.” Much of this sentiment goes back to labour militancy in the 1960s through to the early 1980s. It was a time

when the first 10 minutes of many Canadian newscasts seemed dominated by multiple reports of labour strife in one form or another. If this generalization seems grossly exaggerated, consider the perspective offered by Bryan Palmer, the research chair of the Canadian Studies Program at Trent University. In a keynote address to the Alberta Federation of Labour in May 2004, he lamented organized labour's declining influence and attributed the finding to reduced labour militancy. In 1975, half a million Canadian workers were involved in strikes resulting in nearly 11 million workdays lost. By 1985, the number of employees involved declined to 160,000 with workdays lost markedly reduced to three million. According to Palmer, organized labour's lack of resolve to continue militantly flexing its muscles displayed weakness which employers eagerly exploited to advance corporate agendas in an ongoing assault on the working class.

Others see things differently.

It is equally arguable that the militancy of almost one-fifth of Canada's unionized workforce “hitting the bricks” 30 years ago, coupled with the perceived intransigence of some union leaders, was considered excessive and irrational. This led to less adversarial labour relations models in Canadian workplaces. Rather than accept organized labour's motives as being virtuous and its structures as being positive, it is arguable that many employees simply rejected radical militancy and structural rigidity that remained at the root of the labour movement. As competition stiffened, both employers and employees alike ultimately embraced more flexible human resource programs and practices in equal measure. What evolved was the graduated adoption of employee-focused attitudes by owners and senior and front-line managers. With this came the introduction of benefits and other programs once considered the sole dominion of organized labour. While these programs and approaches were adopted, the more offensive and confining structures of the union movement such as seniority, union jurisdiction or work rules, internal discipline measures and class warfare ideology, were comfortably abandoned by many

workers. “Employees don’t need this kind of ideology to make their way, earn a living and progress as individuals in society,” Corcoran noted.

An Ideological Sham

Coinciding with the annual Labour Day holiday in September 2003, the *National Post* ran a series of articles examining the role of unions in workplaces and the Canadian polity. The feature included poll results on work and unions in Canada commissioned by the Canadian LabourWatch Association and undertaken by Leger Marketing. The findings debunked many myths promulgated by Canada’s traditional labour unions. It indicated 93% of employees were either “satisfied” or “very satisfied” with their current work environment. It revealed that 68% of Canadians were not union members and 81% of this group did not want or need a union. Moreover, results showed non-union employees were more likely to be satisfied with their jobs than unionized employees. According to Corcoran, these high satisfaction levels were attributable to non-union employees liking their work environment better. In particular non-union workers “enjoyed greater flexibility in addressing personal and family needs, better job responsibilities and better relationships with management, better training and better job advancement opportunities.” Ultimately in his view, the union movement may have lost its way. “After decades of mythical struggles based on slogans of class warfare, worker oppression and exploitation, the entire union movement [showed] up in the polls as an ideological sham,” the editor wrote.

Work flexibility was recently explored in a survey of 10,699 (mostly non-unionized) business members of the Canadian Federation of Independent Business (CFIB). The Federation noted a multitude of demographic and social changes (e.g. dual income families) over the past few decades have tremendously impacted the way individuals balanced work demands with non-business related personal issues. The survey sought to determine the extent and degree that member companies went to accommodate employee needs. Overall, 94% of small and mid-sized enterprises (SMEs) offered some



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form of flexible work policies. For example, “to accommodate bursts in work activity as well as the personal lives of their employees, more than 4-in-10 SMEs offer time off or compensation for extra hours worked, or allow hours to be banked for later use,” the CFIB says. The survey also found nearly 80% of respondent companies provided flexible vacation schedules and almost three-quarters allowed time off to deal with personal issues.

Though difficult to quantify in direct financial terms, “more than 90% of businesses regardless of their size, age or industry sector see the benefits of offering flexible workplace practices,” according to the CFIB. “The main benefits are better relationships with employees (77.3%), higher employee job satisfaction (64.1%) and higher employee retention (60.7%),” the business association says. “Half of SMEs report fewer work absences and one-third cited increased productivity. One-fifth of managers indicate flexible workplace practices result in the

business being more competitive in attracting qualified employees,” it concludes. It is significant to note that one of the many recommendations to emerge from the CFIB study was a call for government to “recognize that employers and employees know their situations best.”

Alberta Construction Industry Perspective

In the 1960s and ‘70s, companies having collective agreements with the international craft unions affiliated with AFL-CIO controlled upwards of 70% to 80% of most North American construction markets. Alberta was no exception.

The mid-‘80s recession had a devastating effect on the industry. When construction volumes in Alberta dropped by 55% or \$8 billion between 1981 and 1984, the impact on employment was equally dramatic. Industry employment fell from 120,000 to 65,000 in just two years. When unemployment soared to 30%, union memberships also declined dramatically. From 1982 to 1987, union memberships in Saskatchewan, Alberta and British Columbia fell from 111,000 to 71,000. By then, market shares reversed spectacularly to the point where open shop contractors were winning and completing 80% of the work.

A group that quickly embraced the concept that “employers and employees know their situation best” and recognized the changing construction industry dynamics were the 16 construction companies that founded the Merit Contractors Association in 1986. This group promoted the concept that construction human resource practices should be based on more flexible merit principles. Rather than rely on the union concept of seniority-based hiring, Merit believed tradespeople should be hired according to a variety of factors including individual qualifications and prior performance.

Compensation was also tied to marketplace conditions and individual merit versus standardized collective agreement rates. By joining together co-operatively, these companies believed both economies of scale and synergies could be developed.

Perhaps nowhere was this approach more effective and evident than in the design and

Unionism Limits Choice

Some argue Canada's high union rates reflect a more collectivist culture than that of our southern neighbours. At a superficial level, the respective union rates of the two countries support the argument. In 2003, Canada's unionization rate was much higher at 32.4% of employment than the 14.3% in the United States. The root of the difference, however, has nothing to do with a collectivist mentality and everything to do with a larger public sector and a lack of worker choice regarding union support.

There are three types of jurisdictions in Canada and the U.S. when it comes to worker choice laws, or what are referred to as right-to-work (RTW) laws south of the border. American states generally give workers a choice to join a union and pay full dues, or opt out. Specifically, workers can opt out of union dues not directly related to representation-related spending, such as political and social activities. In 22 American states, extended federal labour laws allow workers the additional choice of whether to pay any dues at all.

Canadian workers, on the other hand, are not granted options. All provinces and the federal government, in one way or another, sanction mandatory union membership and the remittance of full union dues as a condition of employment.

Jurisdictions that afford their workers more choice tend to have lower union rates than those that offer less choice. In 2001, researchers Daphne Gottlieb Tara and Allen Ponak published an important study in the *Journal of Labor Research*. The study noted for most of the 20th century, union rates between Canada and the United States as well as union growth rates were very similar. More importantly, after 1966 union patterns began to differ in two countries and a substantial gap developed which is attributed to differences in worker choice laws.

Permitting workers choice if they want to work in a unionized firm results in lower union rates. Put differently, when workers are given a choice, they choose to be col-

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lectively represented to a far lesser degree. The second explanation, and one intricately linked with a lack of worker choice, is the size of the public sectors in the two countries. The public sector, because of its structure, is much easier to organize than private sector firms. The public sector of today in many ways resembles the old industrialized firms of the past. A union can effectively organize an entire category of workers, such as teachers or nurses, in the public sector that would be almost impossible to do in the private sector. According to Statistics Canada, about 84% of nurses and 91% of elementary and secondary teachers were unionized as of the end of 2003.

Not surprisingly, both Canada and the U.S. maintain much higher rates of unionization in the public sector than in the private sector. For instance, in 2003, 75.6% of the public sector in Canada was unionized, compared with only 19.9% in the private sector. Similarly, in the U.S. 41.5% of the public sector was unionized compared with little over 9% of the private sector.

The fact that Canada has a much larger government sector per capita is an important factor in explaining higher union rates. In 2003, public sector employment in Canada represented almost 18% of total employment whereas it only represented 14.4% in the United States.

Canada maintains higher rates of unionization not because Canadian workers choose collective representation but because they lack choice with respect to union representation and because of our much larger public sector. Affording Canadian workers more choice and allowing more competitive models of program delivery (less public sector employment) would clearly result in lower union rates.

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development of an industry-wide benefits plan. Merit embraced a common, cost-effective plan open to all contractors and all employees, regardless of construction trade. While membership in the association was voluntary for contracting companies, providing the plan to all employees from the first day of employment was made compulsory. Today there are over 950 member companies in Alberta with upwards of 25,000 employees participating in Merit programs.

What Employees Think of Merit-Based Approaches

As a market-driven organization relying on voluntary corporate participation in a non-profit membership setting, continuous improvement initiatives are frequently based on employee surveys. The most recent survey conducted in August 2004 by Bannister Research echoed many of the positive results found in the 2003 Leger Marketing survey.

Merit's survey found the benefit plan, in concert with other measures, contributes to high job satisfaction ratings. For example, 84% indicated their work was satisfying while at the same time a comparable percentage expressed a sense of accomplishment as a result of the work they did. Approximately 92% of respondents were comfortable knowing what their job expectations were and an almost equal proportion felt appropriate safety measures were being used at job sites.

For the most part there is a strong sense of loyalty to current employers. Only 8% felt their company was not treating them well and only 9% indicated they would not recommend working with the company to friends and associates.

In terms of salary and wages, 71% felt they received a "fair wage" for the work they did. Moreover, almost 85% were satisfied with the amount of work that was available to them.

The Challenge to Governments

Whether employees are working with companies belonging to organizations such as Merit, or transnational corporations like fast-food giant McDonald's Corporation, it is apparent the marketplace is challenging the institutionally held notion that employees require the intervention of a union to protect their

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interests. In light of this, one has to wonder why, for example, the Ontario government would introduce legislation removing the right of construction workers to a secret ballot vote on a workplace representation election, as is currently being proposed in Bill 144?

The reality is that many current labour laws, and Alberta's Code is no exception, were developed to protect the interests of labour unions. Despite these protections, the proportion of unionized workplaces in Canada continues to decline. And, while only the narrowest of thinkers would welcome the total demise of unions, it is clear that rigid work rules, organizational classifications and a tendency towards promoting mediocre production norms among workers are ill-suited to today's rapidly changing and competitive business environment.

"Unions don't serve as positive a function as they could. People, if given individual free choice to examine a situation and figure out where their best interests lie – the majority don't see their interests being served through an organized union," Corcoran said.

"Why would they vote for a union that really can't provide anything except often – conflict? Often, as is the case of Wal-Mart, a vote against the union is a vote in favour of what the company is doing."

In the end, governments need to embrace the reality of the times. Given the evidence, there is clearly a need to level the playing field for non-union employers and workers in Canada – that legislation favouring unions at the expense of workers choice is not part of the new reality. In the classic words and music of Bob Dylan: "The times, they are a-changin'."

It's good advice for government. But is it listening? ☐



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