

Brief to Minister Norris

Bill 5, *The Public Service Essential Services Act*

and

Bill 6, *An Act to amend The Trade Union Act*

February 15<sup>th</sup>, 2008

 *Saskatchewan Federation of Labour*

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## **Introduction**

The Saskatchewan Federation of Labour represents approximately 95,000 members, from 37 national and international unions. Our affiliate membership belongs to over 700 local unions throughout the province. We also advocate for the 25,000 workers who are unionized but not directly affiliated to the SFL. And we seek to provide a voice for approximately 125,000 workers in this province who are not unionized, but who may someday choose to become unionized. The SFL advocates for progressive labour legislation and for the expansion and preservation of workers' rights.

## **Consultation Process**

There are approximately half a million workers in this province. Not one organization representing workers in this province was consulted about either the need for Bills 5 and 6, nor the details of what they contain, before they were brought before the Legislative Assembly. Your government has provided no explanation of the fundamental purpose of the Bills, leading us to question for whom they were written.

Recent correspondence between the Premier and the Canadian Federation of Independent Business and the Saskatchewan Business Council, indicates that these small business organizations support Bills 5 and 6. These groups represent a part of the business sector the vast majority of whom are not unionized, nor ever will be. Were they consulted in advance of these Bills being drafted?

A close examination of the list of groups that the Ministry deemed appropriate to ask for feedback meetings, or for written feedback, demonstrates a shocking lack of commitment to hearing from working people, that is, those who are most directly affected by these Bills. Historically the main purpose of labour legislation is to protect employees from unfair and exploitative practices. Yet a litany of organizations and individuals who are not directly affected by this legislation were invited to meet and/or provide feedback. Thirteen post-secondary institutions, 11 mayors and 17 Deputy Ministers were asked for feedback, yet the Ministry invited only eight unions and one labour central to meet about these Bills. Feedback was invited from just one additional union plus the building and construction trades council.

The Ministry's short advertisement in the newspaper and an e-mail address attached to the Ministry's website asking for feedback provide little or no information about the rationale behind the need for these Bills. Twenty-second videos of the Minister describing aspects of the Bills on the website are not useful in understanding the purpose, or impact of the Bills.

At our recent feedback meeting with the Ministry, the SFL asked whether or not feedback received on these Bills would be made available on the Ministry's website. We respectfully request that you make all submissions available for the public record so that workers can review all of the submissions.

Our analysis of the Bills is that they were clearly designed to make it more difficult for workers to form and to operate unions and to engage in free collective bargaining. They were clearly designed to make it more difficult, if not impossible, for union members to exercise their right to strike. We submit that if you are going to so drastically affect unions' ability to function effectively on behalf of their members, that you are obligated to consult at length with unions themselves. A two to three-week window of private, hour-long meetings with less than a dozen unions does not constitute meaningful consultation.

### **Bill 5: *The Public Service Essential Services Act***

The Saskatchewan Party did not campaign on a platform of implementing essential services legislation. Candidate Don McMorris, who shortly thereafter became the Minister of Health, stated publicly during the election campaign that he felt there was no need for such legislation because the current processes in place during strikes was satisfactory. Just weeks later, Bill 5 was introduced in the legislature. The people of Saskatchewan did not give your government the mandate to enact such legislation.

The introduction of these Bills directly contradicts the Premier's mandate letter given to you, which in part, instructs the Ministry to "work with the province's public sector unions to ensure essential services are in place in the event of a strike or labour action." Introducing a Bill that not a single workers' organization asked for and that not a single workers' organization was adequately consulted, does not constitute "working with the province's unions".

Essential services legislation is unnecessary. Unions in this province have always provided emergency services during disputes, and they always will. In the event of a dispute, the public can count on the unions in this province to provide emergency services in a professional and ethical manner. We are citizens of this province too, and our actions affect our own families no differently than they affect each and every citizen's. When unions strike, they do so with an aim to gaining public support. It is not in a union's best interest to endanger the citizens it serves. To date, the Ministry has provided no factual information, nor any rationale as to why such a law is necessary or desirable.

Bill 5 is the most sweeping and heavy-handed essential services legislation in Canada, other than simply proclaiming no-one has the right to strike. While this may seem overstated on the surface, it is critical that we look at the actual words

used in the statute to determine its scope and potential effect on workers' rights. We raise the following questions and concerns about Bill 5:

- a. Pursuant to Section 2(c), the definition of "essential services" includes danger to 'health', a potentially very broad concept. Does it include mental, psychological, and emotional health similar to such definitions in the *Occupational Health and Safety Act*?

Under the same Section, essential services are defined as 'prescribed services' for Government of Saskatchewan employees. "Prescribed services" are then defined in Section 2(h) as those prescribed by the regulations. In other words, Cabinet will decide what the essential services are for Government of Saskatchewan unionized employees. There appears to be no requirement for this designation to be discussed or vetted by the legislative assembly, nor by the public. Because this is stated to be an 'and' as part of the definition, does this mean that Cabinet can designate as essential those services that are beyond those outlined in the definition? The power of Cabinet to make such designations is reinforced and repeated in Section 6(3) of the Act, and by Section 21(b) and (d) of the Act.

The statutory definition of essential services under Section 2(c) is weakened, perhaps even contradicted, by Sections 6 and 7. Because the employer gets to decide which jobs are deemed essential services, and because the Act does not permit anyone to challenge the employers' definition of essential services (Sections 6 and 7), the way the law is presently written the employer can designate anyone as essential, even if they do not meet the definition under Section 2(c). This inconsistency is not acceptable.

- b. Bill 5 appears to be the most far-reaching essential services legislation in Canada in terms of the scope of employers who are covered<sup>1</sup>. No other law covers post-secondary institutions and only one other jurisdiction covers municipal workers. What is the rationale for such workplaces requiring essential services?
- c. Are unionized private sector employers covered by this law? Section 2(i)(xi), states that 'public employer' can mean "any other person, agency or body, or class of persons, agencies or bodies, that is prescribed". Once again, Cabinet can make this decision by regulation. This is repeated and reinforced in Section 21(c) which states that Cabinet can prescribe "any person, agency or body or class of persons, agencies or bodies, as a public employer". Is it your intention for the statute to apply to the private sector?

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<sup>1</sup> See Appendix I – Overview of Essential Services Legislation in Canada, Canadian Union of Public Employees brief to Minister Norris, February 2008.

- d. What does an essential services agreement have to include? Aside from the list in Section 7 of the Act, note that Section 7(1)(e) adds to the list any other prescribed provisions. In other words, Cabinet can prescribe any other terms that have to be included in an essential services agreement. Is there any limit on what that might be? Cabinet's ability to alter the terms of an agreement is reinforced and repeated in Section 21.
- e. Section 21(a) states that Cabinet can 'define, enlarge or restrict the meaning of any word or expression used in this Act'. This appears to grant Cabinet extensive powers to alter the meanings of words in the Act to suit what may be political purposes. Sections 21(e) and (f) appear to give Cabinet extensive powers to make regulations about just about anything.

In several of the points above, we raise concerns about decisions being made by Cabinet, out of the eye of the public and without input from democratically-elected representatives. Regulations are not debated in the Legislative Assembly, nor even presented to it. They are usually made by a committee of Cabinet and they are not made public until they are published in the Gazette. We do not believe that Cabinet, or a committee of Cabinet, should be granted this degree of interference in, or influence over, negotiations between employers and employees. Indeed, in the case of Government of Saskatchewan employees, where the Government acts as the employer, to act in such a unilateral fashion, is unconscionable. Dan Cameron, former chief spokesperson for the Government of Saskatchewan in public service negotiations from 1988 to 1996, argues that "Essential service legislation, in reducing the power of unions, results in government being seen as taking sides in collective bargaining thus inhibiting its capacity to intercede as a dispute-resolving neutral."<sup>2</sup> This neutrality is further diminished by the way the Regulations are written.

Other concerns about Bill 5 include:

- f. Under Sections 6 and 7, the employer designates the classifications that are to be considered essential services. Unions do not appear to have the right to challenge those designations before the Labour Relations Board (LRB). Where would a union go to challenge those designations if they the employer designated workers who do not meet the definition of essential services in the Act? Sections 6 and 7 appear to grant unwarranted powers to employers.
- g. What if there is no essential services agreement? Section 9 suggests that if there is no agreement, the employer designates who is essential, and that is the end of the matter. Again, the power seems to reside ultimately

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<sup>2</sup> "Essential Services Legislation: Will it facilitate or impair industrial relations?" Dan Cameron. CCPA Saskatchewan. February, 2008.

with the employer, with little or no ability for unions to challenge the employers' list.

- h. Under Section 10, it appears unions have the right to appeal to the LRB on only one point: that is, how many people are designated in each classification. There appears however, to be no requirement that the LRB hold a hearing to allow unions to present arguments, nor is it specified how long the LRB can take to make its decision. While 14 days is suggested, the LRB can decide to take as long as it deems necessary.
- i. All employees who are designated as essential, lose their right to strike and face fines that are enforceable as orders of the Court of Queen's Bench under Sections 2(e), 14, 15, 16, 17, 18, 20 of the *Act*. Individuals face fines of \$2000 and further fines of \$400 per day. These fines are extremely punitive.
- j. Under Section 2(k) we note that "work stoppage" is defined "as a lock-out or strike within the meaning of *The Trade Union Act*", which includes "refusal to work" and "activity designed to restrict or limit output". Does Section 14, which states, "No essential services employee shall participate in a work stoppage against his or her public employer", mean that workers would be unable to refuse to work overtime, or to engage in a work-to-rule? Does Section 14 mean that those workers deemed essential would lose their right to vote for a strike?

The Ministry has said that the intent of this Bill (and Bill 6) is to balance the rights of workers with public safety. Dan Cameron concludes, however, that "The focus of the legislation appears to be on limiting union bargaining power and the impact of strikes and lockout action generally as opposed to ensuring the continued provision of essential services in those specific instances where they are threatened"<sup>3</sup>. Our analysis of Bill 5 also concludes that it shifts power to employers, and to the government as an employer, at the expense of workers' ability and right to strike. It is not 'fair and balanced' to take away workers' right to strike, to limit work output, to withdraw partial services or complete services during the bargaining process. In fact, stripping away this right creates the opposite effect, because it removes a union's power to leverage a settlement, tipping the balance unfairly in the employer's favour. Workers cannot engage in free collective bargaining without the ability to withdraw their services if they deem it necessary. Removing the right to strike takes the "free" out of the concept of free collective bargaining, both because it restricts unions' ability to respond to unreasonable management demands, and it because it uses punitive legislation to deny unions that option.

When unions have no ability to strike, employers have no incentive to bargain in good faith. If employers know that workers are powerless to withdraw their

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<sup>3</sup> p.4

services, they can act in a unilateral fashion. Why would government want to encourage employers to behave in a way that increases discord and potentially increases abuses of power in the workplace? Furthermore, during the negotiating period, if employers know that unions cannot challenge the designation of who is essential, they are likely to overestimate the number of workers who they require to be at work during a dispute. This may have the effect of actually prolonging strikes, since there will be less incentive for the employer to settle if a high percentage of employees are working.

We wish to draw attention to the Canadian Union of Public Employees' brief, submitted to the Ministry on February 4<sup>th</sup>. It draws on statistics provided by Saskatchewan Labour, Policy and Planning Branch, concluding that 95.5 per cent of public sector collective agreements are settled without dispute. Why would we want to implement a Bill that would jeopardize such a high rate of freely negotiated settlements, agreements made without undue disruption and dispute? Why would we want workplaces in which free collective bargaining is compromised, when in the vast majority of cases, it works very well?

Judy and Larry Haiven, Canadian researchers specializing in a comparative analysis of labour legislation and health care strikes, reach the following conclusion:

...it is a fundamental principle in industrial relations lore, borne out by facts, that good labour-management relations thrive through voluntarism and wither from compulsion. The core of Canadian labour law compels union and management merely to recognize each other and to bargain in good faith. It does not usually impose an outcome upon them. This holds true for negotiations over the substance of a collective agreement and it also holds true for negotiations over who should work during a strike.

Left to rely on their own expertise without excessive legal compulsion, the negotiating parties themselves will fashion the most practical and workable solutions to problems where they are. Allowed to freely negotiate, unions are surprisingly practical and responsible. Negotiating and making agreements is what they do best.<sup>4</sup>

We wish also to draw attention to the briefs of the Saskatchewan Union of Nurses and the Health Sciences Association of Saskatchewan, submitted on February 8<sup>th</sup>. The health care unions in this province have particular concerns about Bill 5 in light of the fact that our health care system is under stress and strain due to underfunding and labour shortages.

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<sup>4</sup> "Health Care Strikes: 'Pulling the Red Cord'. Judy Haiven and Larry Haiven. CCPA-NS. No. 2. November 2007. p.8. See also "The Right to Strike and the Provision of Emergency Services in Canadian Health Care". Larry Haiven and Judy Haiven. CCPA-NS. December 2002.

Health care workers must have a way of demonstrating that the conditions under which they work affect the quality of health care they deliver. Exercising their right to strike is an important way for health care workers to sound the alarm on a system that may be endangering public safety.

Under 'health care reform,' health care personnel are working harder, longer and more intensely than ever before. It can be said that these workers are a key element holding together an overstretched system. They need a process to make their concerns known to their employers, the government and the public...For better or for worse, that system is collective bargaining, which includes, if necessary the threat of withholding their labour.

Careful observation of collective bargaining in health care has shown that health care employers and managers become less attentive workers' needs and less willing to negotiate when the strike threat is missing – the so-called 'chilling effect'. This is only natural. Employers faced with the possibility of work stoppage are more likely to take workers concerns seriously. Employers not faced with this possibility can be expected to turn their attention to the hundreds of other things on their plate. But allowing employers to evade the issues actually makes things worse by feeding the worker anger that produces strikes.<sup>5</sup>

Unions cannot support a Bill that effectively takes away the right to strike for thousands of public sector workers, workers who require that right in order to make their negotiations with their employers meaningful and productive and to protect the people they serve. Sound public policy should support, rather than erode, the process of free collective bargaining.

### **Bill 6: *An Act to amend The Trade Union Act***

We wish to draw your attention to the title of the *Act: An Act respecting Trade Unions and the Right of Employees to organize in Trade Unions of their own choosing for the Purpose of Bargaining Collectively with their Employers*. The title encapsulates the intent of the statute. *The Trade Union Act* is clearly designed for the purpose of clarifying the rights of workers and unions.

Note the following excerpt from the Speech from the Throne, which outlines the intent of the *Act*:

To enhance the security of other sections of the working population, my government will bring in legislation designed to afford them a greater protection against exploitation. A Collective Bargaining Bill will be

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<sup>5</sup> "A Tale of Two Provinces: Alberta and Nova Scotia" Judy Haiven and Larry Haiven. CCPA-NS. No. 1 October 2007. p.6

introduced designed to guarantee freedom of association among workers. It will offer them protection against unfair practices: it will guarantee their rights to bargain collectively with their employers: and it will establish machinery whereby enforcement of agreements will be assured.<sup>6</sup>

We analyze the changes contemplated in Bill 6 from the perspective of whether the changes weaken or strengthen workers and their unions. We submit that any changes your government seeks to make to the *Act* must also be viewed from this lens.

We raise the following questions and concerns about the amendments:

- a. Section 6, replacing Section 11(1)(a) describes employer unfair labour practices. The new words are “but nothing in this Act precludes an employer from communicating facts *and opinions* to its employees” (emphasis added).

This amendment appears to be solely designed to give more power to employers to interfere in the workings of the union. It is fair to say that the vast majority of successful prosecutions of employers under the *Trade Union Act* are based upon the elements of section 11(1)(a) as they presently exist. Employers are already guilty on a regular basis of coercing and intimidating employees, including the firing of union organizers and threatening workers with the potential closing down of the business if a union forms.

In a 2003 organizing drive at a British Columbia call centre, to name one recent example, the employer was found guilty of coercive and intimidating communication. The employer used continuous slide shows with anti-union messages and video surveillance cameras to monitor employee contact with union organizers. The Labour Relations Board also ruled that the employers’ ‘gifts’ to employees containing anti-union messages were a violation.<sup>7</sup>

Even without the words “opinion”, employers regularly coerce and intimidate. Why would we want to amend the *Act* to give employers more opportunities to commit unfair labour practices? Why would we want to further embolden employers to dissuade their employees from exercising their rights under the *Act*? Why would we want to make legal what is currently illegal in many parts of Canada?

The Section 6 amendment describes the rights of employers to communicate facts and opinions, but does not specify that these rights only apply during organizing drives and decertification drives. Does Section 6 therefore include the right of the employer to communicate its opinions to an employee or group of

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<sup>6</sup> Moose Jaw Times-Herald. October 19, 1944).

<sup>7</sup> “Calling on Call Centres”. Bruce Bachand and Chris Anderson, as told to David Durning. *Our Times*. December 2008/January. p.27

employees about: whether they should be trying to get rid of the union; stop a union organizing drive; refuse to file a grievance or support the union filing a grievance; oppose a bargaining position or proposal of the union; vote against a strike or to end a strike; organize to defeat or elect certain employees to union positions; support a raid by another union; or vote against dues increases and assessments or fines for scabs?

Does Section 6 give employers the right to communicate opinions to a single employee and/or groups of employees and/or all employees through any and all forms of communication? Does this include meetings at work, mail, phone canvassing, interoffice memos and bulletins, employer newsletters, email, internet? Just where does the employer's right to express opinions begin and end?

We take particular note of the sequence of the words in the Section 6 amendment. It states that it is an unfair labour practice "to interfere with, restrain, intimidate, threaten, or coerce an employee in the exercise of any right conferred by this Act, but nothing in this Act precludes an employer from communicating facts and its opinions to its employees". By placing "nothing in this Act precludes an employer" *after* the description of the unfair, it could be interpreted that the employer's communication can in fact be intimidating or coercive without being deemed an unfair labour practice. In the few other jurisdictions in which employers are permitted to communicate their views or opinions, it is conditional upon that communication not being coercive, intimidating or interfering. If our interpretation is correct, the Section 6 amendment could in effect result in an invitation for employers to intimidate and coerce their workers.

Lawmakers across Canada and the United States recognize the asymmetrical power relationship between the employer and employees in the workplace. That is why they created so many unfair labour practices that are based upon limiting, and in some circumstances, prohibiting the employer from communicating its opinion. The freedom to speak, act, participate, express yourself, associate with others, participate in your association and be active for your union is a worker's right, without fear of being fired, disciplined, or demoted if the employer takes offense.

- b. Section 3 of the Bill repeals Section 6(1) of the *Trade Union Act* (the card certification process) and replaces it with mandatory secret ballot certification votes. We read this to say that no matter the level of support unions sign up in an organizing drive (even 100 per cent), the LRB will not certify the union unless a Board-supervised vote is held.

What constitutes a valid vote for the certification of a union? It appears that unions need 50 percent plus one of all employees eligible to vote for unionization. This contradicts Section 8 of the *Trade Union Act* which states that the majority of those eligible to vote constitutes a quorum, and that as long as the

majority of those voting are 'yes' votes, then the union is certified. Is it now the case that unions need support from 50 per cent plus one of all employees? This might mean that all employees who do not vote are counted as 'no' votes. When asked by the media after the Bill was introduced, Premier Wall was quoted as saying this was the intent of the new law. He also said that unions should not be concerned with the change because it would work the same way for decertifications: those who do not vote will be deemed to have voted 'no' to decertifying. If non-votes are counted as 'no' votes, this amendment is based on very undemocratic principles.

The call by employers, and by your government, for 'freedom of information' and 'democracy' in the workplace relies on the assumption that employers have a role in the choice by workers as to whether or not they want to join a union. The labour movement does not accept that premise:

Freedom of speech is not an abstraction. There is a qualitative difference in power when an employer argues a point of view vs. a point of view articulated by a rank and file worker. If, for instance, an employer suggests that it is not a good idea for the workers at their workplace to join or form a union, the workers at that workplace are keenly aware that there is an implied threat. The threat may be very subtle, or it may be as subtle as an atomic bomb, but the threat is there. Forming a union is portrayed as an act of betrayal and there are consequences to betrayals.<sup>8</sup>

Mandatory secret ballot votes achieve the opposite effect of democratized workplaces, as argued by the United Steelworkers of America:

...representation votes are profoundly undemocratic. They are simply a license for employers to interfere in the democratic selection of a trade union. All of the available evidence demonstrates that democratic card-check procedures are necessary to avoid the anti-democratic employer coercion inherently available through a vote process. Union votes are unlike any other kind of election because of the inherently coercive power that management holds over employees - the power to deprive employees of their livelihood and to control their pay, hours and working conditions.<sup>9</sup>

...Under the present vote-based certification process, management has easy and almost unlimited access to employees, while union supporters have almost none. Under the vote-based certification process, management has unrestricted access to a complete and accurate list of employees at all times (including home addresses and telephone

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<sup>8</sup> "Why Should Employers Have a Role in Deciding Whether Workers Have Unions?" Bill Fletcher. <http://www.zmag.org/sustainers/content/2007-05/04fletcher.cfm>

<sup>9</sup> "A Return to Fairness: Restoring the Right of Ontario's Employees to Unionize". Submission to the Ontario Minister of Labour, Chris Bentley. United Steelworkers of America, District 6. May 26, 2004. p. 10.

numbers), while union supporters may have access only very late in the process to a list that is often intentionally inaccurate and that, in any case, carries only names and some versions of job titles.

The vast majority of union certification votes take place on employer property. The employer maintains full control of the property during the vote. The union is granted access only to the room containing the ballot box and poll booth, while the employer remains free to campaign throughout the rest of the workplace. In contrast, elections for political office take place on neutral ground and campaign activities are banned from such areas.<sup>10</sup>

In 1992, the B.C. Committee of Special Advisors, made up of both management and labour experts, was struck to examine “overall industrial relations strategy”. They recommended unanimously that the province return to a card-check system. The Committee made the following conclusions:

The surface attraction of a secret ballot vote does not stand up to examination. Since the introduction of secret ballot votes in 1984 the rate of employer unfair labour practices in representation campaigns in British Columbia has increased by more than 100%. When certification hinges on a campaign in which the employer participates the lesson of experience is that unfair labour practices designed to thwart the organizing drive will inevitably follow. The statistical profile in British Columbia since the introduction of the vote was confirmed by the repeated anecdotes our Committee heard in its tours across the Province. It is also borne out in decisions of the Board and Council. Unions would sign up a clear majority of employees as members and a vote would be ordered. Then key union supporters would be fired or laid-off while threats of closure dominated the campaign and the vote itself was viewed as a vote on whether or not to continue with employment rather than as a vote on redefining the employment relationship. It is not acceptable that an employee’s basic right to join a trade union be visited with such consequences and illegal interference. Nor is there any reasonable likelihood of introducing effective deterrents to illegal employer conduct during a representational campaign. A shorter time framework will not deter an employer intent on “getting the message” to his employees. Neither is the imposition of fines and/or the expeditious reinstatement of terminated employees likely to introduce attitudinal or behavioural changes in employers intent on ensuring that their employees do not join unions. The simple reality is that secret ballot votes and their concomitant representational campaigns invite an

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<sup>10</sup> “A Return to Fairness: Restoring the Right of Ontario’s Employees to Unionize”. Submission to the Ontario Minister of Labour, Chris Bentley. United Steelworkers of America, District 6. May 26, 2004. p. 11.

unacceptable level of unlawful employer interference in the certification process.<sup>11</sup>

If there is any doubt that moving from a card-check system to a mandatory vote system will markedly reduce union certifications and overall union density, statistics from British Columbia and Ontario also support this conclusion. Both provinces have seen successful certification applications plummet since switching to mandatory votes (in 1984, and 1995, respectively).<sup>12</sup>

Several other aspects of the amendments in Bill 6 appear designed to reduce union certifications:

- c. Under Section 6(2)(a), before the LRB orders a vote, they must investigate to ensure unions have 45 per cent support, a large increase from the current requirement of 25 per cent. This is the second highest threshold in Canada.<sup>13</sup> Currently unions have up to six months from the date of the first signed card to make an application for certification. The amendments under Section 6(2)(b) reduce that period to only 90 days, the shortest sign-up period of all jurisdictions in Canada. These changes are obviously designed to make it more difficult for unions to obtain a successful certification.
- d. Section 6(2)(c) is repealed. The LRB can no longer refuse to order a vote if it is satisfied that another union represents the majority of employees in the appropriate unit. Does this change now allow the LRB to order votes even if another union represents employees? Of particular concern, does this now open the door for the Christian Labour Association of Canada (CLAC) and other anti-union groups to replace the existing certifications of all of the various building trades? Attached is a copy of a document prepared by the Canadian Labour Congress (CLC) on CLAC. We share the concerns of the CLC and the Sask/Provincial Building Trades that CLAC is not a democratic or representative organization and does not serve the interests of workers. We do not support the stripping away of the legal authority of the LRB to determine an existing certification and to summarily dismiss frivolous applications.
- e. The addition of Sections 21.1 and 21.2 appear to attempt to speed up the decision-making process of the LRB and to increase the amount of reporting they would be required to produce each year. There is no indication that the Government is increasing the budget to the LRB to

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<sup>11</sup> *Recommendations for Labour Law Reform*. V. Ready, J. Baigent, and T. Roper. Victoria: Queen's Printer for British Columbia. September 1992, p.26.

<sup>12</sup> "The Crisis in Union Organizing under the BC Liberals" Patrick Dickie. Hastings Labour Law Office. November 21, 2005. p. 4. See also "The Effect of Compulsory Certification Votes on Certification Applications in Ontario: An Empirical Analysis". [10.C.L.E.L.J.] 399 at p.429-429.

<sup>13</sup> See Appendix III – Jurisdictional Comparison of Union Certification Rules, Canadian Union of Public Employees brief to Minister Norris, February 2008.

ensure that they have adequate resources for such an increased demand. Since the LRB is already under-resourced, how will they meet this legislative requirement?

- f. Section 17(2)(c) is added to give Cabinet authority to prescribe regulations that will define the kind of written support that unions must use for certification purposes. At present, unions use their own version of cards to gather support. Some cards include oaths, dues authorizations, and signing fees. Why would Section 17(2)(c) be necessary? Why would Cabinet need to control the design of union cards?
- g. Section 9 amends the powers of the LRB. Presently, under Section 18(f) of the Act, the LRB decides which forms unions must use for certifications and decertifications. Cabinet will now have that power. Presently, under Section 18(g), the Board decides which forms, documents, and information is permitted for use for all applications. Cabinet will now have that power. Presently, under Section 18(g), the Board decides what time limits there are for filing and presenting any forms, documents, or information for all proceedings. Cabinet will now have that power. Why does your government want to shift powers from the LRB to Cabinet? Why would Cabinet want to be involved in the internal workings of the LRB? Once again, government appears to be taking on an advocacy role for employers rather than a third party who mediates in the public interest.
- h. The creation of Section 12.1 creates a time limit for filing unfair labour practices to 90 days. The present Act has no time limits for filing unfair labour practices. We note that this is an unusual precedent for time limits in other labour legislation in Saskatchewan. For example in the *Labour Standards Act* and the *Human Rights Code* the limit is one year. The 90-day limit will reduce the ability of unions to fight unfair labour practices because it often takes longer than 90 days to discover, document, and prepare an unfair labour practice case. This new limit obviously favours employers, giving them much more leeway to commit unfair labour practices, and leaving unions much more powerless to stop them.
- i. Section 33(3) will be repealed, which presently provides for a limit of three years on the length of a collective agreement. The proposed amendment eliminates this limit and by doing so allows for a collective agreement of any length agreed to by the parties. The significance of this is clear from the recent decision of the LRB in the case involving the Steelworkers and Wheat City Metals. The employer tried to lock out the union and force them to agree to a collective agreement longer than three years. Under the law now, it is illegal for an employer to do that. The new law would allow an employer to lock unions out for as long as they want. Unions could be forced to agree to a 20-year collective agreement. Without the ability to bargain changes to the agreement every few years, workers lose

one of the most effective mechanisms for dealing with problems that may arise at the workplace.

It is not only unions who could suffer under this amendment. The limit on the length of collective agreements was established to the benefit of both employees and employers. It prevents one side from being held hostage when the other side has a particular advantage. This limit was written into the *Trade Union Act* under the principles of fairness and balance. Removing that limit takes us in the opposite direction.

Bill 6 is described by your government as “ensuring that democracy and freedom of information are present in Saskatchewan workplaces”. Given the analysis above, we believe Bill 6 will in fact erode democracy and freedom for workers. It will provide an opportunity for employers to interfere in the formation and administration of trade unions, which shifts power into the hands of employers. Furthermore, we should not be attempting to roll back the unionization rate, which is what your government’s *Trade Union Act* amendments, taken together, will most certainly do.

### **Legal Implications**

For the purposes of this short legal analysis of the implications of Bills 5 and 6, the following are the major sources upon which this analysis is premised.

#### **Statutes:**

*Canadian Charter of Rights and Freedoms*

*Canadian Bill of Rights*

*Human Rights Code of Saskatchewan*

*Convention (No.87) Concerning Freedom of Association and Protection of the Right to Organize*, 68 U.N.T.S.17

*Declaration on Fundamental Principles and Rights at Work*,(1999), 6 IHRR 285

*International Covenant on Civil and Political Rights*, 999 U.N.T.S. 3

*International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. 3

*Canada Labor Code*, R.S.C. 1970, c.L-1, as am.

*Trade Union Act*, R.S.S.1978, as am.

**Cases:**

*RWDSU v. Dolphin Delivery Ltd.*, [1986] 2 S.C.R. 573

*Reference Re Public Service Employee Relations Act (Alta.)*, [1987] 1 S.C.R. 313

*Public Service Alliance of Canada v. Canada*, [1987] 1 S.C.R. 424

*Retail, Wholesale and Department Store Union v. Saskatchewan*, [1987] 1 S.C.R. 460

*Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner)*, [1990] 2 S.C.R. 367

*Saskatchewan Government Employees Union (SGEU) v. Saskatchewan*, [1997] S.J. No.123 (Q.B.)

*U.F.C.W., Local 1518 v. KMart Canada Ltd.*, [1999] 2 S.C.R. 1083

*Dunmore v. Ontario (Attorney General)*, [2001] 3 S.C.R. 1016

*Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.*, [2002] S.C.J. No.7

*Health Services and Support – Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] S.C.J.No.27

*Confederation des Syndicats Nationaux c. Quebec (Procurer General)*, [2007] J.Q.No.13421(C.S.Q.)

Bills 5 and 6 were introduced together and have been treated almost as one concept in law throughout the introduction into first reading, the media releases, government interviews, as well as the invitations to submit commentary and the few invitations to meet with the Minister. For the purposes of this analysis, the Bills will be treated as one.

Throughout history, both in Canada and internationally, the law has been evolving in a consistent direction: to improve the working conditions, rights and freedoms of working people. This has included the recognition of the social, political and economic value of unions in the functioning of a free and democratic society and the fundamental necessity of unions in actually achieving and protecting the rights, freedoms and improved working conditions sought by all.

The sources of this sometimes exponential evolution are many:

- International law declarations, covenants, bills or proclamations created through the International Labour Organization (ILO) and the United Nations (UN) after decades of consultation, negotiation and experience;
- Jurisprudence that arises from the enforcement of these international laws through tribunals, primarily in Europe and at the ILO;
- Statutes enacted by provincial and federal legislatures in Canada;
- Constitutions and “constitutional like” statutes including our *Bill of Rights* and the various applicable human rights codes/acts;
- Jurisprudence that arises from all levels of our courts in all Canadian jurisdictions;
- Academic writings and published works by legal experts and scholars.

In the context of the developing move towards enshrining and expanding workers’ and unions’ rights, the past two decades have been quite dramatic in both the depth and the strength of the laws directed at such goals.

The enactment of *The Canadian Charter of Rights and Freedoms*, and in particular Sections 2 and 15, has without question been a recent source of this legal liberation movement for working people. This has been most evident in the past few years in several precedent setting decisions from the Supreme Court of Canada.

When the *Charter* came into existence, unions began to evaluate how they could use it to improve collective rights and working conditions for all workers. Not much progress was made. When governments began to legislate an end to strikes and/or remove the right to strike, and/or limit/restrict/prohibit collective bargaining, and/or limit picketing, leafleting or protest activities, unions used various sections of the *Charter* together with international law to challenge them. Again, initially without much success.

The main aspects of these cases were based primarily upon the freedom of expression (Section 2(b) of the *Charter*) and freedom of association (Section 2(d) of the *Charter*) and some combination of the two.

### **Freedom of expression**

The freedom of expression has explicit protection in almost all laws: the *Charter of Rights and Freedoms*; the *Human Rights Code*; and international law.

Unions argued that freedom of expression included: the right to picket; the right to secondary picketing; the right to leaflet; the right to work-to-rule and organized overtime bans during the term of the collective agreement; the right to strike; and the right to political protests against government anti-union actions by withdrawing our labour. It was argued that these were various forms of “expressing” ourselves in order to improve our living and working conditions, to

express our opposition to government actions, and to promote our social, economic and political well-being.

Initially, the courts were hesitant to define this freedom broadly enough to accept labour's submissions. Courts were unwilling to strike down legislation and injunctions that limited and/or outright prohibited many forms of strike activity.

This began to change in the late 1990's, culminating in 2002 with the *Pepsi* decision of the Supreme Court of Canada. Not only did the court reverse fifty years of jurisprudence and give secondary picketing constitutional protection as a form of expression, the court adopted an expansive analytical framework using the *Charter* to protect union rights. This precedent was even more dramatic because of the **unanimous** support of **all nine judges** of the court, as if to emphasize to governments and courts all across Canada that it was time to take seriously the rights of working people and their unions.

There were two significant aspects of importance in this judgment which are relevant to the proposed legislation under Bill 5 and 6:

- a) The repeated and forceful pronouncements that we must formally be cognizant of the severe imbalance of power favouring employers in the workplace and the need to move social policy and law in the direction of making this power more fairly and equally distributed in the workplace, through unions.

The Supreme Court unanimously stated in *Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.*, [2002] 1 S.C.R.156, (hereinafter "*Pepsi*") at para.33-34.

Free expression is particularly critical in the labour context...for employees, freedom of expression becomes not only an important but an essential component of labour relations...The values associated with free expression relate directly to one's work...Personal issues at stake in labour disputes often go beyond the obvious issues of work availability and wages. Working conditions, like the duration and location of work, parental leave, health benefits, severance and retirement schemes, may impact on the personal lives of workers even outside their working hours. Expression on these issues contributes to self-understanding, as well as to the ability to influence one's working and non-working life. *Moreover, the imbalance between the employer's economic power and the relative vulnerability of the individual worker informs virtually all aspects of the employment relationship...free expression in the labour context thus plays a significant role in redressing or alleviating this imbalance.* (emphasis added)

As discussed earlier in this brief, both pieces of legislation appear designed to increase the power of employers and worsen the power imbalance that presently exists in Saskatchewan workplaces. Bills 5 and 6 move the legislative framework in the opposite direction of the general direction of our laws and social policy.

It is particularly pernicious that a significant portion of these two laws will give the largest employer in this province the most significant increase in power – the new Saskatchewan Party Government as employer. The government as employer already has significant influence over working conditions of its employees through the setting of public sector wage guidelines. Bills 5 and 6 further shift the balance of power in the government's favour.

The recent pronouncement that your government has removed all unionized employee representatives from the publicly owned and operated Crown corporations advisory boards belies this shift in power. This move silences the freedom of expression of those employees on matters directly affecting them and takes away perhaps one of the most important peaceful forums for such expression.

b) Our freedom of expression includes the right to strike and protest.

Since the *Pepsi* decision, the Supreme Court of Canada has not had the opportunity to pronounce on the extent to which the freedom of expression would include the freedom to strike and engage in political protest including withdrawal of labour. They did, however, unanimously give some guidance as to what 'picketing' as a form of 'expression' could encompass. In *Pepsi*, at para.30:

Picketing represents a continuum of expressive activity. In the labour context it runs the gamut from workers walking peacefully back and forth on a sidewalk carrying placards and handing out leaflets to passers by, to rowdy crowds shaking fists, shouting slogans, and blocking the entrances of buildings. Beyond the traditional labour context, picketing extends to consumer boycotts and political demonstrations.

It is our view that by using the 'essential services' designation, your government is infringing upon the freedom of expression of unions and employees. Bill 5 does not appear to permit designated employees to engage in picketing, demonstrations, and other forms of expression for the purposes of gathering public support, inflicting economic harm, and changing government laws. Without the ability to express oneself *effectively*, the freedom is merely illusory.

The amendments to the *Trade Union Act* also give rise to great concerns about the extent to which this freedom of expression will be allowed to be exercised by employees in Saskatchewan wishing to be unionized and/or to be engaged in expressing themselves on union issues. Can you freely exercise a freedom such as expressing yourself *if the employer, with the imbalance of power in your*

*workplace, can offer an opinion that threatens you with loss of employment if you do exercise your freedom?*

Is it a form of expression to publicly organize your co-workers to join a union and to be active in it: by talking to them at work so long as you get your work done; by leafleting for support; by giving them a secret ballot or card designed by you letting them choose to form a union; and by actually signing such a secret ballot/card for a union yourself? There are certain forms of expression that may be protected under the freedom of expression. As the Supreme Court of Canada in *PEPSI* says, at para.69:

...labour speech engages the core values of freedom of expression, and is fundamental not only to the identity and self-worth of individual workers and the strength of their collective efforts, but also to the functioning of a democratic society. *Restrictions on any form of expression of this gravity, and particularly expression of this gravity, should not be lightly countenanced.* (emphasis added)

It should also be noted that this decision has been generally followed across Canada since it was issued six years ago and was endorsed in its conceptual framework for applying *Charter* principles to labour law in the next seminal decision discussed below, under freedom of association.

### **Freedom of association**

During the late 1980's and early 1990's, unions attempted to use the *Charter*, human rights law, and international law to defend against state intrusions on the right to strike and to bargain collectively under the 'freedom of association'. There was little success at the Supreme Court of Canada. The leading cases became known as 'the trilogy' and served to dominate and guide the legislatures and courts until June 8<sup>th</sup>, 2007.

The 'trilogy' included the following: *Reference Re Public Service Employee Relations Act (Alberta)*, [1987] 1 S.C.R. 313 (hereinafter '*The Reference*'); *Public Service Alliance of Canada v. Canada*, [1987] 1 S.C.R. 460 (hereinafter '*PSAC*'); and *Retail, Wholesale and Department Store Union v. Saskatchewan*, [1987] 1 S.C.R. 460 (hereinafter '*Dairyworkers*').

It is important to note that in each of the cases in the trilogy, the court was very divided in its opinion. In other words, if even one judge had changed his or her opinion the result would have been different. The issues were and are serious and significant for society, government and in particular, workers and their unions.

In *PSAC*, the federal government introduced legislation extending collective agreements without the right to bargain collectively for any changes to them for

several years. Unions argued that freedom of association included the right to engage in one of the fundamental purposes of their association without which that freedom was meaningless – the right to collective bargaining and therefore, the right to strike as well. Seven judges heard the case. Four ruled against the unions, two ruled in favour on the freedom of association argument, one would have struck down the legislation in parts, and one did not take part in the decision.

In the *Reference*, the Premier of Alberta introduced legislation which took away the right to strike completely from some unions/workers and which limited the right to strike and to bargain collectively for others by using ‘essential services’ to limit and restrict that right. Four judges ruled that freedom of association did not include the right to collective bargaining and the right to strike, one of them using some different arguments than the other three. Two judges ruled that freedom of association did include those two rights and would have struck down the legislation. One judge did not take part in the decision.

It is important to note that this case was referred to the Alberta Court of Appeal by the Conservative government to get its opinion on the constitutionality of their legislation. Almost every government participated as a result because it would impact on them. That the same request that the SFL has made of the Premier of Saskatchewan with respect to Bills 5 and 6. Unions in other provinces are now seeking legal advice to challenge similar legislation since the *Health-Services* decision. We suspect that a Saskatchewan reference would be of interest to all other provincial governments.

In the *Dairyworkers*, the government of Saskatchewan introduced legislation prohibiting the right to strike and right to lockout in the dairy industry. Of note was that at the Court of Appeal of Saskatchewan, the majority ruled that freedom of association included the right to strike and the right to bargain collectively. At the Supreme Court of Canada, seven judges heard the case: four ruled against the unions, two ruled in favour (although one would have allowed this infringement of the freedom under Section 1 of the Charter), and one did not take part in the decision.

The seminal decision on freedom of association was issued by the Supreme Court of Canada in *Health Services Support-Facilities Subsector Bargaining Assn. v. British Columbia*, [2007] S.C.J. No.27,( hereinafter ‘Health Services’) some 20 years later. Three aspects of this decision are significant:

- a) The *Health Services* decision specifically overruled the trilogy decisions.

As should be evident, by overruling the trilogy, the Supreme Court of Canada has opened the door to reconsider the extent of the protection to freedom of association. Many argue now that the trilogy has been overruled, the outcomes

of those three cases (and those that followed the trilogy like *Professional Institute of the Public Service of Canada v. Northwest Territories (Commissioner)*, [1990] 2 S.C.R. 367 would be very different today. For labour, that is certainly the case and across Canada there are several court cases at various stages of the process arguing such.

A recent example of this is the decision in *Quebec Confederation des Syndicats Nationaux v. Quebec (Procureur General)*, [2007] J.Q.No. 13421 (C.S.Q.). The court gave a different result than a previous Saskatchewan case, *Saskatchewan Government Employees Union (SGEU) v. Saskatchewan*, [1997] S.J. No.123 (Sask.Q.B), that had relied upon previous Supreme Court decisions and the trilogy. In the *Quebec Confederation* case, the Quebec court relied upon the *Health Services* decision to change the law as it had been up until 2007.

- b) The *Health Services* decision says that governments must act in good faith, as that term is understood in traditional labour law.

The British Columbia government introduced legislation that took away the right to strike and that prohibited collective bargaining on many issues in the health care sector. The rationale for its law was the 'crisis in the costs of healthcare' and the 'need to improve delivery of health care services'. The Supreme Court of Canada ruled that governments must consult effectively and meaningfully with those affected before introducing such intrusive legislation and must in effect bargain collectively in good faith, particularly when they are acting as an employer in benefitting from their own legislation.

It is our view that your government has not consulted effectively and meaningfully with respect to Bills 5 and 6. As discussed earlier in this brief, no consultation took place with anyone affected **before** the legislation was written, introduced into the legislature and passed at first reading. This lack of consultation has not been corrected by the 'feedback' process that was offered to some groups. There is no indication that either law will be changed before presented at second or third reading. No rationale and no empirical research have been presented to explain the need for the laws or to examine their potential impacts. Good faith bargaining requires disclosure of all information necessary for the parties to understand and to respond.

Some also argue that by using regulations to enact laws that intrude on the freedom of association, the government is not bargaining in good faith nor consulting. Using regulations generally means no scrutiny in the legislature by our elected representatives and therefore no public discourse. This means no opportunity for our elected representatives to vote for or against such laws. The suggestion is that such undemocratic processes at the level of the legislature is not justifiable in a "free and democratic society".

The recent *Quebec Confederation* decision referenced above and another challenge around Bill 142 in Quebec suggest support for this interpretation of the *Health Services* principles.

- c) *Health Services* unanimously expanded the definition and application of freedom of association.

The judgment at para.19 states:

We conclude that s.2(d) of the *Charter* (freedom of association) protects the capacity of members of labour unions to engage, in association, in collective bargaining on fundamental workplace issues....What is protected is simply the right of employees to associate in a process of collective action to achieve workplace goals. If the government substantially interferes with that right, it violates s. 2(d) of the *Charter*. We note that the present case does not concern the right to strike, which has been considered in earlier litigation on the scope of the guarantee of freedom of association.

The law is clearly moving in the direction of expanding the freedoms of expression and association for unions and working people in Canada. At the same time, Bills 5 and 6 intrude upon the very foundation of the rights workers and their unions in this province have enjoyed for over 60 years. They amount to union busting. As the Supreme Court ruled in *Health Services* at para. 92,

Laws or actions that can be characterized as '*union-breaking*' clearly...constitute substantial interference with freedom of association...(emphasis added)

It is prudent social policy, solid statesmanship, and likely a huge cost saving to Saskatchewan taxpayers to have this matter referred to the Court of Appeal of Saskatchewan as was done in Alberta. As the laws are presently written and presented to the legislature, there is every reason to believe that some, if not all, aspects of these laws would fare poorly on a constitutional challenge. Why not fix them with the guidance of the highest court in the province and with the broad inspection of the issues that would surely come from those affected and who would likely intervene?

### **Labour Legislation, Labour Relations, and a Prosperous Saskatchewan**

We note that one of the first acts of your government is to take away rights that workers in this province have enjoyed for over 60 years. This dual-pronged attack on collective bargaining rights and on unions' ability to organize workers is unjustifiable. We ask you to consider the harm that rolling back workers' rights will no doubt have on the labour relations environment in Saskatchewan.

Long before the proclamation of the *Trade Union Act*, and before the *Charter of Rights and Freedoms* was enacted, workers struck, struggled, and some even died for the realization of these freedoms. The working class fought against starvation wages and dangerous, exploitative working conditions because they recognized that without legal protection, the power imbalance between employers and employees would continue to be perpetuated. Labour is not likely to sit by and have these protections reversed without a great deal of concern and struggle. These Bills cannot be anything but counter-productive for the relationships between workers, both organized and unorganized, and your government. As Dan Cameron concludes, “The creation of a toxic relationship between government and labour is not a proper foundation for protecting the people of Sask. from threats to their health, safety and security”.<sup>14</sup>

If these Bills pass, Saskatchewan will move from having legislation that is internationally acknowledged, recognized and respected as “fair and balanced” – to legislation that will occupy a position at the bottom. Is this the sort of labour relations climate you wish to foster, given that keeping workers in Saskatchewan and attracting new workers to the province is a goal shared by all of us across the policy community?

The relationship between employers and workers will also suffer if Bills 5 and 6 are enacted. Workers will see employers having more control over their working conditions than ever, including their ability to function as independent trade unions. Such an environment can only lead to disharmony and discord. Regarding Bill 5, evidence cited above suggests that essential services legislation may in fact prolong and provoke strikes.

Saskatchewan’s unionization rate has remained relatively constant for the last three decades, at about one-third of all workers. Under the current legislation, unions have not gained excessive power in either total numbers or density. We therefore argue that any new labour legislation, or amendments to current labour legislation, should be geared towards moving to a higher rate of unionization, similar to the levels in Scandinavian countries. In these countries the gap between the wealthy and the poor is significantly narrower, in large part because of high rates of unionization. In Canada there is a growing disparity of income between wage earners and the wealthiest cohort in society. Weakening trade unions and limiting the effectiveness of collective bargaining will only exacerbate this problem and create expensive social problems for governments to attend to in the future.

Union activity is an integral part of democratic civil society. Without the right to join unions and to enjoy the rights afforded to them, employees cannot effectively raise their standard of living and quality of worklife. Without unions, it is much more difficult for workers to have other key labour rights enforced, including

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<sup>14</sup> p. 5

workers' compensation, occupational health and safety, minimum labour standards, and pay equity.

The Canadian Labour Congress has tracked the difference that unions make in workers' standards of living:

When it comes to wages of non-managerial employees, union members typically make over \$5.00 per hour (\$5.09) more than non-union workers. The difference is even greater for female employees who generally earn almost \$6.00 more than their non-unionized counterparts...Through collective bargaining, they typically make wages more equal among workers, and therefore ensure that less people are left with low paid jobs. As a result, only 8 percent of union member earn less than \$10.00 an hour as compared to a third of non-union employees."<sup>15</sup>

Workers making decent wages contribute a percentage back to the province's revenues in the form of taxes. Those revenues sustain Saskatchewan's social fabric. It is not in the best interests of a strong economy to see workers' wages eroded.

These pieces of legislation do nothing to foster a co-operative environment and harmonious industrial relations climate. In this period of labour and skills shortages, these Bills take us backwards. The Saskatchewan Labour Market Commission (SLMC), co-chaired by business and labour, is an initiative between labour, business, government, post-secondary institutions, and Aboriginal organizations. The SLMC tackles the pressing issues of training, recruitment and retention, and labour force development strategy. This co-operative approach to policy development on issues so important to both business and labour will be set back by regressive labour legislation.

There is nothing democratic about this dramatic removal of rights so crucial to working people in Saskatchewan. They are inimical to the co-operative history and traditions of the people of this province. On their face, they reflect an ideological, not a logical step.

## **Recommendation**

Taken together, Bills 5 and 6 the amendments to the *Trade Union Act* and the *Essential Services Bill* appear to constitute a violation of workers' *Charter* rights under the freedom of association and freedom of expression provisions. They will result, without a doubt, in Saskatchewan having one of the worst legislative frameworks in Canada, creating an image of a province that is rolling back workers' rights and an unstable labour relations climate. Bills 5 and 6 should be withdrawn from the legislature and abandoned.

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<sup>15</sup> <http://canadianlabour.ca/unionize/ua-wages.html>. Canadian Labour Congress. 2008.

Any and all amendments to existing labour legislation and the drafting of any and all new labour legislation, should not be undertaken without a demonstrated rationale. Any and all amendments to existing labour legislation, and the drafting of any and all new labour legislation, should be undertaken only after extensive and meaningful consultation with those who it is intended to serve, that is the approximately 250,000 working men and women of this province.