

# Bill C-4: Restoring Balance Between Employers And Unions

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These two bills made significant changes to the legal framework for unions, and yet unions and employers were not consulted before the bills were drafted. The bills were not even reviewed by the Department of Justice. In fact, they were adopted because they had the tacit approval of the government, which imposed the party line on its MPs and senators. This approach is highly questionable. It was strongly criticized not only by unions, but also by FETCO, the largest association of federally regulated employers, which asked to not be subject to this process.

These two bills became bad legislation. During the last election campaign, both the Liberals and the NDP promised to repeal them. Bill C-377, which forces unions to disclose a variety of personal financial information online, is likely unconstitutional. Seven provinces have opposed it, seeing it as intruding on their labour relations jurisdiction. Their position was supported by the vast majority of legal experts who have appeared before the Senate since 2013. In their opinion, this bill is unconstitutional and violates privacy rights.

Bill C-525, which came into force in June 2015, made significant amendments to the union certification system. It makes secret ballots mandatory and relaxes the conditions to revoke union certification. The main argument to support it was that mandatory secret ballots were more democratic than the system it would be replacing.

This argument is very simplistic. The system it replaces, known as the card-check certification system, also provides for secret ballots. This system, which will be restored if the current Bill C-4 is enacted, provides that a secret ballot is mandatory when 35 per cent to 50 per cent of employees sign a membership card. It also provides for a secret ballot vote if, after verifying with the cardholders, the Labour Relations Board deems it appropriate.

In everyone's mind, a secret ballot vote is synonymous with democracy. But the conditions in which it takes place must also be taken into account. In some countries, a secret ballot vote during an election is not necessarily synonymous with democracy. Bill C-525 did not include any safeguards against ways the employer could pressure employees. This bill would have been different if the changes to the union certification system had been negotiated between the parties.

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It is also important to note that Bill C-525 contains technical errors, due to the fact that it was not reviewed by the Department of Justice, unlike government bills.

Going forward, senators will have to decide, not which certification system is better, but how to recognize the paramountcy of the tripartite labour relations system when the time comes to amend the Labour Code. If the Senate decides to defeat Bill C-4, it will be confirming the validity of a dubious process, thereby undermining the stability of the current tripartite federal labour relations system.

In addition, the Senate must consider the unintended consequences of the legislation that Bill C-4 will repeal. First, Bill C-525 may reduce unionization rates, primarily in the private sector. A study carried out by the Department of Employment in 2013 concluded that making secret ballot voting mandatory in some provinces led to a decrease in union coverage in the private sector, dropping from 23 per cent in 1997 to 19 per cent in 2012.

Second, many studies show that, in addition to globalization and technological change, a lower unionization rate is strongly associated with higher income inequality. According to a study by researchers at the International Monetary Fund, in developed countries, 40 per cent of the increase in revenue share for the richest 10 per cent is attributable to lower unionization rates. Unionization leads to a more equitable distribution of employment earnings and promotes a growing middle class. It also establishes a public voice that can call on governments to provide better social programs, increased minimum salaries and a progressive tax system.

The Organisation for Economic Co-operation and Development determined that, on average in OECD member countries, increased inequality is responsible for a cumulative loss of 8.5 per cent of GDP over a period of just more than 20 years.

In short, passing Bill C-4 is not only a way to ensure an election promise is fulfilled, but also a way to recognize the importance of the tripartite federal labour relations system and to take a step in favour of the middle class and shared prosperity.