Democracy is not alive and well in the Canadian workplace.

Unpublished Letter to the Editor of The Economist
By John Mortimer
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Re: September 21st - THE LIMITS OF SOLIDARITY

Unlike the UK, USA, Australia and others, Canada has more than one labour code - eleven in fact for the private sector and most of the public sectors (one per province, plus the federal jurisdiction). Your article incorrectly stated: "In Canada, for instance, recent labour-law reforms have shifted to an election-based system." The most recent labour law change was in Ontario where, in an apparent return favour to key donours (construction unions and unionized construction employers) the Liberals stripped the guaranteed democratic vote for construction employees but left it for non-construction employees. Only Alberta has a guaranteed vote in all situations. Seven more jurisdictions have card certification possible at levels ranging from 50%+1 to 65% and it happens regularly. In fact, many unions withdraw applications when they learn they will face a vote instead of cards signed during home visits or in bars. Many employees talk about the intimidating and manipulative methods used to get cards but employees lack the resources to take multi-million dollar unions before Labour Boards.

In addition, we are now the only major economy to allow forced membership, forced dues, unions supervising their own strike votes and little protection for unionized employees who cross picket lines.

John

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THE LIMITS OF SOLIDARITY

September 21st, 2006

Boosting unions won't do much for America's workers

WALK into the Washington headquarters of the AFL-CIO, America's biggest federation of trade unions, and you see the words of Virgil on a large, colourful mosaic: LABOR OMNIA VINCIT ("Work conquers all"). The phrase seems cruelly ironic. The share of American workers carrying union cards has plunged from over 20% in 1980 to under 13% in 2005, and almost half of those are government employees. Far from conquering all, organised labour seems heading for extinction. Except that sometimes extreme weakness spawns an odd sort of strength, and the underdog starts barking.
Something like this may be happening now in America. As the national debate focuses on worries about rising income inequality and the "squeezed" middle class, Paul Krugman, a prominent liberal commentator, has argued that government policies rather than market forces are to blame. Among the policies that need fixing, he thinks, is an anti-union climate.

Mr. Krugman's view is striking, since he is no anti-marketeer but a distinguished economist and free-trader. The stance of the Democratic Leadership Council (DLC), the voice of pro-business Clintonian Democrats, is equally notable. The DLC is supporting legal reform to make union organising easier, arguing that the "careful balance between employers and employees...is in peril." In sum, the centre-left has joined the left in accepting that helping workers means strengthening unions.

Union supporters are about to be galvanised further by the National Labour Relations Board (NLRB), the politically-appointed body that interprets American labour law. The NLRB is about to rule on three cases involving nurses and load-foremen, known collectively as the KENTUCKY RIVER cases, and its findings will determine which jobs may be classified as "supervisory". Since supervisors do not have a legal right to collective bargaining, broadening the range of jobs deemed supervisory reduces the pool of workers who can be unionised.

No one doubts that the rulings will be bad for the unions. One estimate by the Economic Policy Institute (EPI), a pro-union think-tank, is that up to 8m people could lose the right to organise. Stewart Acuff, a top official at the AFL-CIO, reckons that figure could include 2m existing union members (or 13% of current union membership). That would be a crushing setback. The biggest impact would be in health care, one of the few industries where the unions have been making headway. The EPI estimates that more than one-third of registered nurses could be reclassified as supervisors. Mr Acuff worries that the KENTUCKY RIVER cases will be the "biggest blow to labour" since the Taft-Hartley Act of 1947, which banned the closed shop.

KILLING THE SECRET BALLOT

Together with other Bush-era decisions, such as denying collective-bargaining rights to temporary workers, the KENTUCKY RIVER cases convince the left that the Bush administration is waging war on unions. This is stretching it: the NLRB is re-interpreting the definition of "supervisors" because the Supreme Court has struck down earlier interpretations as too narrow. Still, anti-Bush grievances are fuelling the unions' plans for a counter-attack.

The counter-attack centres on the inaptly-named Employee Free Choice Act. Passing this measure has become the top political objective of both the AFL-CIO and Change to Win, a group of unions that broke away from the main federation a year ago. Both organisations have vowed to support only those politicians who endorse the bill, and to fight against those who do not. They have convinced all but four Democrats in the House of Representatives (along with 15 Republicans) and 42 Democrats in the Senate. The prospect of a Democratic House of Representatives, coupled with the possibility of Democratic gains in the Senate, has strengthened the chances that the bill will pass, particularly if a Democrat wins the White House in 2008.

The bill would stiffen punishments for employers who intimidate workers trying to form a union. It would mandate third-party arbitration if unions and bosses cannot agree on a contract. And, most important, it would get rid of secret ballots as a prerequisite for union recognition. Under the 1935 Wagner Act, which gave American workers the right to collective bargaining, employers do not have to recognise a union unless a majority of workers vote in favour of one in a special secret ballot.
Secret ballots are a cornerstone of democracy. But unions argue that, far from protecting workers, they leave huge scope for employers to delay the vote and to intimidate workers beforehand. Instead they want union recognition on the basis of "card-check", where employers have to accept a union when a majority of workers sign a card saying they want one.

The case for abolishing secret ballots is hard to make. It is odd to argue that signing a public petition is less open to intimidation (by both unionists and employers) than a privately cast ballot. Historically, Americans have had little truck with the idea. Unions pushed for card-check laws in 1978 but, despite Democratic control of Congress and Jimmy Carter in the White House, they failed. Other countries have also rejected the idea. In Canada, for instance, recent labour-law reforms have shifted to an election-based system.

So why are America's unions so keen on card-check? The answer is desperation. Worker ballots are proving a barren recruiting ground for union organisers. Although the unions now win slightly more elections than they used to (over 60% in 2005), both the number of elections and the number of workers covered have plunged.

Instead union organisers have shifted to "corporate campaigns" designed to pressure firms into allowing unionisation by card-check. These campaigns--highly visible, public attacks on corporate reputations--are becoming ever more common, particularly in service industries such as hotels and health care where many unions foresee growth in future. Some unions have scored notable successes. Cingular Wireless, a mobile-phone company, has reached a card-check agreement with the communication workers' union. Many Hilton and Starwood hotels have recently signed deals with UNITE HERE, a big union representing hotel staff. Union leaders reckon that 70% of their new recruits now come from card-check campaigns.

The unions' counter-attack is based on two presumptions: that stronger legal rights would reverse their loss of members, and that bigger membership would help workers. Both claims are debatable. Shifting to card-check may help stem the unions' decline, but it will not herald their renaissance. And falling union strength explains only a small part of America's rising inequality and wage stagnation.

VICTORS OR SPOILERS?

Economists differ on whether the unions' troubles are caused by rising legal obstacles and employer opposition, structural changes in the economy or because workers no longer want to join unions. The chief proponent of the employer-opposition view is Richard Freeman of Harvard University, who has long argued that such opposition explains between one-quarter and a half of the unions' falling membership. He points to polls suggesting that between 30% and 50% of non-union workers would vote for a union if they had a chance to do so, and notes that an entire industry of consultants has sprung up to advise firms on how to frustrate union votes. If the shift to card-check reduced employers' ability to deny workers a choice, unions could get a boost.

Evidence from Canada, where legal reforms went in the opposite direction, suggests that tweaks to the law do make some difference. Chris Riddell of Queen's University in Kingston, Ontario reckons that the shift from card-check to mandatory elections in many Canadian provinces could have exacerbated union decline by as much as five percentage points. By extension, shifting to card-check could raise America's unionisation rate by a few percentage points, other things equal.
But other things are not equal. Despite varying legal regimes, union density has fallen across most rich countries and some poor ones in recent decades, often more steeply than in America. That suggests that structural economic shifts, rather than specific policies, have played a role.

Thanks to globalisation and technological innovation, fewer workers are employed in the heavy industries where unions used to be strong. Larry Katz of Harvard University reckons that these employment shifts explain up to one-third of the decline in America's unions. Whatever their job, however, Americans who work for private employers are less likely to join a union than a generation ago. Union membership has plunged not only in the shrinking manufacturing sector but also in fast-growing service industries, such as entertainment, retailing and finance. The share of unionised workers in manufacturing fell 40% between 1984 and 2001. The share of union workers in the retail industry fell by the same amount, though from a much lower base.

Henry Farber of Princeton reckons that this may be because unions have become less attractive to workers. Thanks to heightened competition, unions can no longer protect against job losses, as Detroit's carworkers know only too well. Sophisticated human-resource departments now allow employers to replicate many of the unions' traditional functions, such as dealing with workers' grievances. In sum, legal reform might redress union decline. But it will not dramatically reverse it.

What of the unions' second conceit: that more unionisation would help American workers? The answer is that it might help some—but at a price. Unions have historically dampened inequality. Pay scales in unionised firms tend to be flatter than in non-unionised ones. David Card, an economist at the University of California at Berkeley, reckons that about 15% of the increase in wage differentials among men since the early 1980s, though none of the increase among women, can be explained by declining unionism. Most of that effect was concentrated in the 1980s. Today's rising inequality is mainly thanks to soaring pay at the top of the income scale. Its causes lie in the structural shifts—globalisation and technical change—that have also weakened unions.

All this suggests that card-check is an odd priority for centrist Democrats. After all, trade unions have obvious drawbacks as well as modest attractions. Whenever they win their members higher wage rises than in non-unionised firms, this money has to come from somewhere. If it comes from profits, investment—and future economic growth—may suffer. If firms pass on the higher costs to their customers, the result is not always the sort of redistribution that Democrats want to see. Progressives may cheer at raising cleaners' pay and charging hotel customers extra. But what about a fast-food joint or big-box retailer, whose customers are no richer than its workers?