



STATE of the UNIONS

A NATIONAL POST / GLOBAL NATIONAL LABOUR DAY POLL

In this exclusive series, National Post looks at the role of unions in the Canadian workplace. Much of the content is based on a poll of Canadians commissioned by the Canadian LabourWatch Association and conducted this August by Leger Marketing. The series ran September 2 to 5, 2003.

Secret ballots a must to certify union: poll

89% of respondents

Drew Hasselback

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When it comes to union membership, Canadians definitely want to have their say.

A National Post/Global National poll commissioned by LabourWatch and conducted by Leger Marketing found that 89% of respondents said secret ballots should be mandatory when forming or removing a union at a workplace.

Despite such overwhelming support for the right to vote on union membership, Alberta, Ontario and Newfoundland are the only Canadian jurisdictions that in all instances require a secret ballot vote before unions can be certified.

In most other Canadian provinces, and under the federal law that governs labour relations in federally regulated industries, unions can be automatically certified after a certain number of employees, usually 50%, sign union cards.

The poll shows that this practice is not in tune with Canadian attitudes.

"To certify simply on the basis of card signing is not democratic and I think most people are coming to the view that it is appropriate to have a vote," observes Bill Watson, a labour lawyer with the Toronto office of law firm Baker and McKenzie.

Workplace democracy is an on-going hot button issue in the labour movement. Several union leaders have resisted recent moves in Ontario and British Columbia to replace automatic certification with secret ballots.

Yet the poll shows that rank and file union members disagree with their leaders on this. They want secret ballots, too.



CREDIT: Jason Kryk, The Windsor Star

Union supporters at a Windsor, Ont. Wal-Mart store in 1997: A union was certified but the effort failed when a contract couldn't be secured.

Of those union members participating in the poll, 92% said they would require secret ballots when forming or removing a union -- more than the 86% of non-unionized respondents who voiced the same opinion.

"Even currently unionized employees are opposed to the views of union leaders and of legislators and of labour boards, which seems to be that employees shouldn't always get a vote. I should think that's anti-democratic. It's paternalistic and insulting to think employees can't make up their own minds," says John Mortimer, president of LabourWatch.

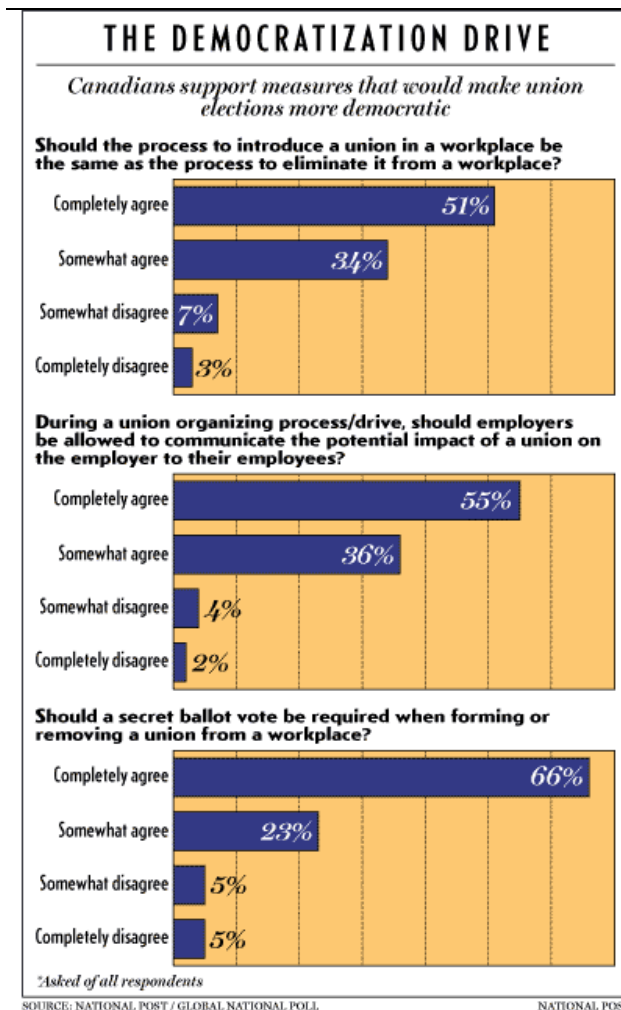
Canadians are looking for change in a number of areas, such as easing rules that limit the degree to which employers can communicate with workers during a union membership drive. Some 91% of respondents said the employer should be allowed to talk to workers about the potential impact of unionization.

On the whole, Canadians demand balance when it comes to the procedural issues involved in introducing and removing unions from workplaces.

To the outside observer, such balance can seem lacking in the actual give and take of union certification. Take, for example, the four-year struggle over the certification of a union at a Wal-Mart store in Windsor, Ont.

Most workers at the store voted against the union, but the provincial regulator, the Ontario Labour Relations Board, certified the union anyway because it believed the employer had exerted influence on the employees. The situation ended quietly in 2000 when the union finally walked away from the store after failing to secure the workers a first contract.

Results can differ across Canada, where 11 jurisdictions (10 provincial and one federal) each have their own system for certification and decertification.



In some provinces, labour legislation sets up exactly the same requirements and timelines for both certification and decertification -- which is exactly what Canadians want.

According to the poll, 85% of respondents said the process of introducing a union to a workplace should be the same as the process to eliminate it from a workplace.

But in other jurisdictions, such as Saskatchewan and Manitoba, some management-side labour lawyers complain that it can be easier to certify than decertify.

The same criticism even extends to British Columbia, where the business-friendly government of Premier Gordon Campbell reformed the province's labour legislation in 2001.

"The process of certification, the administrative procedures for certification and the substantive decisions of the Labour Board on certification, are much more union friendly than they are for decertification," insists Michael Hunter, a labour lawyer with Fasken Martineau in Vancouver.

"That is a 1950s approach to labour law: Unionization is the best method of employer-employee relations. That is old fashioned and completely out of date."

Part four of a four-part series.

The not-for-profit Canadian LabourWatch Association provides information about unionization for employees and employers. The association's Web site can be found at www.labourwatch.com and www.infotravail.ca. dhasselback@nationalpost.com

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