

# COALITION OF BC BUSINESSES



**Speaking Notes**  
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**President of the BC Chamber of Commerce**

**Standing Committee on Human Resources, Social Development and the Status  
of Persons with Disabilities**

**January 30, 2007**

**Re: Bill C-257, an Act to Amend the Canada Labour Code.**

Good afternoon. My name is John Winter and I am President of the BC Chamber of Commerce.

Thank you for the opportunity to present to you today our comments, concerns and firm opposition to Bill C257.

I'm here today representing the Coalition of BC Businesses.

The BC Chamber is one of 17 business associations that comprise the Coalition - which has been acting on behalf of 50,000 small and medium sized BC businesses since 1992.

The Coalition supports labour policies that will help foster a positive working relationship between employers and employees and a climate for economic growth and jobs.

We are relieved the Committee agreed to expand its consultation on this critical piece of proposed legislation.

And we are appreciative of the Committee's considerate offer to appear before you via video conference from Vancouver.

However, we felt compelled to travel to Ottawa so that we might convey to you directly the severity of our concerns.

We speak to this issue with some authority and experience. As you may know, BC has had a legislated ban on replacement workers since 1993.

And over that time, we have become quite familiar with the same myths and misinformation that proponents of C-257 have been offering up.

Chief among them is the erroneous assumption that a ban on replacement workers levels the playing field between labour and management.

Take for example a neighbourhood bakery in Vancouver and the relative leverage of the parties involved in a labour dispute.

On the one hand, the striking employees have the ability to continue earning a livelihood by working elsewhere if they so choose, a scenario quite likely in today's hot economy and worker shortage.

On the other hand, the bakery owner's ability to maintain his livelihood - without staff - is all but eliminated.

Remarkably, it's against the law in BC for him to even hire family members to keep the ovens operating. All the owner can do is to carry on under the burden of overworked and overstressed management who are putting in extra hours and doing the job of multiple employees for the length of the strike, which could be months.

There is no sure outcome for the bakery owner. The striking employee is legally guaranteed his job when the strike is over (a principle that the Coalition supports).

The union is guaranteed the right to bring in replacement pickets to keep the pressure on for as long as it takes.

But the employer has no ability to take action to keep the business afloat; his entire investment is at risk!

Meanwhile, loyal customers are taking their business elsewhere to avoid the strike. Less bakery goods are sold and sales drop.

It will be an uphill and costly battle for the baker to win back lost business after the employees return to work – that is, if there is still a viable business to come back to.

Small businesses in BC know that they have little choice about whether or not to endure a strike – they simply cannot do so.

The options a small business owner faces in this *so-called* level playing field are essentially:

- a) Shut down;
- b) Give in to union demands to avoid a strike it knows it cannot withstand; or
- c) In the event of a strike, seek a quick settlement rather than a settlement which serves the long term viability of the enterprise and the jobs it supports.

In BC, it is no wonder that many small and medium-sized business owners liken the ban on replacement workers to a gun pointed at heads of employers.

In the Coalition's view, a ban on replacement workers tilts bargaining power excessively towards unions and undercuts the effectiveness of the negotiation process.

It is that fundamental imbalance which explains why the opposition of BC's employer community to the replacement worker ban remains undiminished 13 years after it was introduced.

As my colleague from the BC Business Council noted, C257 is more damaging than the BC legislation in several respects.

Instead of restricting itself to banning replacement workers, C257 even prevents *employers* from attempting to operate their own business during a strike.

For example, the owner of a small inter-provincial trucking operation cannot even drive a truck himself during a strike. C257 prohibits him from engaging in *any* productive work to try to keep the business running.

The second point is that employees of the business are not permitted to disagree with their union and cross the picket line to do their job during a strike. This is permitted in BC but would be outlawed under C257.

On December 7<sup>th</sup>, the President of Teamsters Canada stated before this Committee that Bill C257 is about "dignity and respect for workers".

How does depriving Canadian employees of their fundamental right to dissent from their union's decisions and choose to work further dignity and respect for workers? This is imposition of union solidarity through legislation.

The Coalition wonders whether these provisions of Bill C257 would be consistent with the freedom of association and freedom of expression protected by the Canadian Charter of Rights and Freedoms.

There can be no question that Bill C257 is wholly inconsistent with another principal tenet of labour law – that is, the "spill-over effect" of labour disputes between a particular employer and its union.

Any spill-over should be limited as much as possible to avoid harming third parties who are not involved in the labour dispute.

This Bill applies to federally regulated companies that are vital to the national economy, such as: transportation, telecommunications, and financial services.

Granting organized labour the ability to shut down these businesses entirely through Bill C257 would have a catastrophic domino effect extending far beyond the direct impact to federally regulated businesses.

Small and medium-sized enterprises are third parties to a labour dispute and have much to lose. How? You ask. Take for example:

- The manufacturer who depends on the railways to ensure just-in-time delivery of components to the factory...
- Retailers and their customers who rely on the financial services sector to process millions of payments transactions every day...
- The small business which depends upon Canada Post to deliver its goods to customers in a cost-effective manner, and the customers who are depending upon the timely receipt of those goods.
- The millions of businesses, including home offices that depend on the services of telecommunications companies for their telephone, fax and email communications.

In the event of a federal labour strike, the average Canadian small or medium-sized business does not have the ability to quickly adapt and find new suppliers, distribution networks, or communications service providers.

The burden of Bill C257 on these enterprises, and the families and employees that run them, is simply staggering.

The Coalition of BC Businesses supports the basic tenet that this Committee has heard in previous testimony that laws should only be changed to address real and pressing problems.

The onus is on the advocates of C257 to demonstrate that Canada has a problem to resolve with the use of replacement workers. They have failed to do so.

The fact is the federal Labour Code already protects union workers from the abusive use of replacement workers.

A ban on replacement workers currently exists when an employer hires them with the aim of undermining the union.

In the 20 years prior to the adoption of the Sims Task Force recommendations and the 1999 amendments to the Code, the federal government had to enact emergency back-to-work legislation 17 times.

Since 1999, there hasn't been a single instance where the federal government has had to impose a settlement through emergency legislation.

This is the most eloquent and compelling testimony in support of Canada's balanced Labour Code.

Adoption of Private Members Bill C257 would cause more economic and personal damage than it seeks to remedy.

The Coalition of BC Businesses respectfully urges this Committee to recommend to the House that this legislation be rejected, as Parliament has had the wisdom to do nine times previously.

Thank you for this opportunity to be heard.