

## Remarks for OPSEU President Warren (Smokey) Thomas for a presentation to the Changing Workplaces Review

Queens Park Conference Rooms, Trent Room, 900 Bay St., Toronto  
September 18, 2015, 10:00 a.m. (10 minutes)

### CHECK AGAINST DELIVERY

Good morning. I'm Smokey Thomas, president of the Ontario Public Service Employees Union. It's a pleasure to be here.

By now you've heard from dozens of presenters with scores of ideas on how to change the *Ontario Labour Relations Act* and the *Employment Standards Act*. Some of those presenters have been OPSEU activists. I'm proud to add my recommendations to theirs on behalf of all 130,000 of our members.

I imagine you've heard some contradictory views from the labour movement, but I'm also sure you've heard that on many issues there is a broad consensus.

All unions want to see the OLRA changed so that it actively supports workers' success in organizing and collective bargaining. It's the surest route to better jobs and better lives for workers and their families.

We want to see the return of card-based certification, as we have in the construction sector. It is the surest way to limit employer attempts to unduly influence and intimidate workers who want to unionize.

We want to see greater protections for workers involved in organizing drives. By this I mean that:

- All employers should have to show "just cause" for disciplining or firing workers, not only during organizing, but right up until the first collective agreement is ratified. This would eliminate the loophole that encourages employers to fire employees who are leaders in the union before a first contract can be reached.
- There should be serious limits on employers' ability to interfere in organizing drives, especially during votes. The employers' views always oppose unionization and are always unduly influential in a vulnerable workforce.

- The Labour Relations Board should have broad interim relief powers to give effective, substantive protection to workers involved in organizing and bargaining.

Unions also want straightforward, easy access to mandatory arbitration for first contracts. Language such as that contained in the *Manitoba Labour Relations Act* would allow the parties ample time to bargain without denying workers the right to a collective agreement within a reasonable time frame.

We want to encourage real collective bargaining by banning the use of scabs during strikes and lockouts.

We want successor rights for employees working for contract service providers so that those workers retain their collective agreement rights if a new contractor takes over their work. The current law has not kept pace with the rapid turnover of employers in the contract sector.

We want these improvements for all workers in Ontario, including those covered by legislation other than the OLRA, such as the *Colleges Collective Bargaining Act* and the *Crown Employees Collective Bargaining Act*.

All of these measures would improve the ability of working people to improve their working lives. In the age of precarious work, empowering workers to take action together through collective bargaining is more important than ever.

That's why we support modernizing the certification process to recognize that we live in an age of networked communications.

These days, we buy things online, we bank online, and we meet online, yet as far as organizing is concerned, the Internet doesn't exist.

That needs to change. It's time for the OLRA to recognize union application cards signed online.

Workplaces today are becoming increasingly fragmented. Workers are more and more isolated, and they are often working fewer hours or for shorter periods of time with a given employer. Online card-signing would give workers a new and faster way to achieve certification.

We are certain that this can be done in a way that ensures the integrity and legitimacy of the certification process.

## **Precarity in the public sector**

The Terms of Reference for your review refer to the problem of precarious work but seem to see it as a private-sector phenomenon. It is not. Public-sector workers are in no way immune from the trend towards greater precarity.

In the short time I have I want to draw your attention to precarious work as it exists in the public sector in Ontario – and what can be done about it.

The modernization of public services that occurred in the 1960 and 1970s in Ontario was accompanied by the rise of public sector unions like OPSEU. The happy result was a lot of good public sector jobs.

Our high rate of unionization has allowed many public sector workers to maintain a decent standard of living over time. This has been particularly important for working women, who hold five out of eight public sector jobs in the province.

Unfortunately, the public sector labour market that was being created when I first entered the workforce began to be picked apart soon after.

This happened in a number of ways:

- In areas like developmental services, mental health, and corrections, work was downloaded to community agencies from the public service. The government did not, and does not, require those agencies to maintain the wages and working conditions of the public service collective agreement. Indeed, cost-cutting was the reason for the downloading in the first place.
- In our community colleges, union success at maintaining living standards for full-time permanent staff led college employers to flood the workplace with low-paid, non-union, part-time staff. In some cases, part-time college faculty are earning less than one-tenth the going rate for teaching credit courses.
- In hospitals and other workplaces, services like food preparation, cleaning, and laundry have been contracted out to companies offering lower wages and worse working conditions.

Unions have had some success in organizing these kinds of units. But in every case, collective bargaining has had to start from scratch.

This is especially true with respect to contracted-out services. Every time the contractor changes, the unit has to be re-organized and a new collective agreement negotiated. This keeps workers in a perpetual limbo where they may never achieve their rights.

As contracts change, workplaces are changing, too. Bargaining units are smaller and harder to service. And now we are seeing the rise of the one-person workplace. This is what is happening in developmental services.

The first step in transforming developmental services was “de-institutionalization,” which saw large workplaces broken up and replaced by dozens of smaller ones.

Now we’re seeing the next step: individualized funding. Instead of funding public services, the so-called “Passport Program” provides funding directly to families to care for their family member as they see fit.

This includes hiring personal support workers. The program guidelines tell families that (quote): “Passport recipients are responsible for understanding and meeting the legal and financial obligations associated with hiring support workers.”

The implication is that families will take on responsibility for remitting statutory deductions like CPP, EI, and income tax.

This is ludicrous. It is never going to happen. What is going to happen is the creation of a government-funded invisible workforce that is impossible to organize because of its invisibility.

These invisible jobs exist right now. Employers are evading their obligations right now. And public dollars are paying them to do so.

This highlights two things that I think are important for your review.

First, the breakup of the traditional workplace through contracting-out, downloading, and privatization is driving a rise in smaller, more isolated work units where employer control is absolute and collective action is, realistically, impossible to achieve.

Second, government itself is a principal driver of precarious work.

## **Sectoral strategies**

With respect to the former, I think it is clear that in many (if not all) sectors, there is an urgent need to create some sort of sectoral bargaining structure that will give all employees a way to benefit from collective bargaining.

We favour sectoral agreements to set basic standards for all employees in a sector, negotiated between councils of employers and councils of unions in the sector. This could be, essentially, a version of the decree system used in Quebec.

In the public sector, where public dollars are involved, the council of employers would of course include representation from, and be led by, government.

We believe your recommendations should call on the Minister of Labour to develop a legislative framework for sectoral bargaining, with full participation from worker and employer representatives.

## **Government as a driver of precarious work**

I'd like now to address the issue of government as a driver of precarious work.

The market forces that have made our workplaces less hospitable to working people are often talked about as if they are forces of nature that we can't do anything about. This is not the case.

Free trade, privatization of public services, and attacks on union rights and employment standards are all government policies that have shaped the way labour markets work in this country.

Tax cuts and underfunding of public services are government policies as well. They have worked in tandem to increase precarious employment at every level and in every agency of government.

If the Changing Workplaces Review can get our Ontario government to recognize its own role in the creation of precarious work, and to understand that it has the power to improve work by improving its own behaviour, you will have accomplished something important.

Thank you for your time.