

Share some 21st Century insights with Joe Mulhall



CUSW at Work in the Workplace

The CUSW Constitution is built to provide a forum where like-minded people can come together in an open and democratic environment for the purpose of advancing the interests of workers and society as a whole. We built CUSW this way by design. This very same approach can be used when it comes to working with our Employers.

The early years of workers gaining recognition by employers were not easy for the workforce that came before us. In a recent Supreme Court of Canada case (BC Health Services) the Supreme Court Judges took the opportunity to write a very good history of the struggle that workers had to endure to gain the right to bargain collectively in Canada.

Quote from Supreme Court Decision:

“In summary, workers in Canada began forming collectives to bargain over working conditions with their employers as early as the 18th century. However, the common law cast a shadow over the rights of workers to act collectively. When Parliament first began recogniz-

ing workers’ rights, trade unions had no express statutory right to negotiate collectively with employers. Employers could simply ignore them. However, workers used the powerful economic weapon of strikes to gradually force employers to recognize unions and to bargain collectively with them. By adopting the Wagner Act model, governments across Canada recognized the fundamental need for workers to participate in the regulation of their work environment. This legislation confirmed what the labour movement had been fighting for over centuries and

what it had access to in the laissez-faire era through the use of strikes – the right to collective bargaining with employers.”

In addition to the right to bargain collectively, the Law that confirmed worker’s rights in Canada called PC 1003 introduced a way to bring harmony to the workplace that could not be attained naturally through worker/ employer relationships. The Law had to be put in place to force the employers to recognize the rights of the workers.

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Quote from Supreme Court Decision:

“P.C. 1003 was a compromise adopted to promote peaceful labour relations. On the one hand, it granted major protections to workers to organize without fear of unfair interference from the employers and guaranteed workers the right to bargain collectively in good faith with their employers without having to rely on strikes and other economic weapons. On the other hand, it provided employers with a measure of stability in their relations with their organized workers, without the spectre of intensive state intervention in the economy (Fudge and Glasbeek, at p. 370). These elements of P.C. 1003 continue to guide our system of labour relations to this day (Adams, at pp. 2-98 et seq.)”

In addition to the right to bargain collectively the Law also recognized the right to come together and form unions for the purpose of collective bargaining with their employers. This was a major breakthrough and one that has continued to be recognized in our Society and in fact was strengthened by The Charter of Rights and Freedoms that was adopted by the Government of Canada in 1982.

Quote from Supreme Court Decision:

“Collective bargaining, despite early discouragement from the common law, has long been recognized in Canada. Indeed, historically, it emerges as the most significant collective activity through which freedom of association is expressed in the

labour context. In our opinion, the concept of freedom of association under s. 2(d) of the Charter [page433] includes this notion of a procedural right to collective bargaining.”

The right to join a union, the right to participate in the regulation of the work environment and the right to bargain collectively are all a fundamental part of the Canadian Society. The members in every one of our bargaining units has the legally recognized right to sit down with their employer in “good faith” to set the workplace conditions that affect them. This is a right that was won through centuries of hard fought battles. Every one of you as members has a right to participate in your workplace. Exercising this right is a responsibility that we owe to ourselves and to our families.

Members take on a new role as they add value to the employer. Collective Bargaining joins the individual members together through “bargaining rights” and provides the mechanism to ensure that the value created is shared to the benefit of the workforce. The ability to negotiate is contained in the skills of the workers and not from the monopoly power of the union. This approach allows our members to transcend the economic restructuring of the economy as it evolves around us. Please read your collective agreement and when the time comes add your voice to the future.

– Joe Mulhall

