



**Federally Regulated Employers —
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Dear Member of Parliament,

As you know, Bill C-257 (replacement workers) has passed the Committee stage and is now back in the House of Commons for the Third Reading debate. I am writing to express some serious misgivings about the Bill in its current form, and to encourage you to vote against Bill C-257 when the time comes.

You will no doubt recall that many Members supported Bill C-257 at Second Reading, despite their personal reservations, because they wanted to send it to Committee for further study. While some observers questioned the thinking behind such a decision, it has nonetheless proven to be a wise approach; the Committee hearings revealed that Bill C-257 has a very serious flaw, and that flaw threatens to significantly hurt Canadians if the Bill is passed in its current form.

What emerged during the Committee stage is that Bill C-257 makes no allowances for the maintenance of essential services during a work stoppage. What the Committee hearings also revealed is that in the event of a major labour disruption affecting a federally-regulated industry, the absence of an essential services guarantee could deny the public numerous vital transportation, communications and banking services. These include, among others, rail commuter services; transportation services to remote communities; delivery of OAS, CPP and EI checks and communications services for hospitals and police. Finally, when the Bill was referred back to the House, we learned that the Liberal amendments designed to address the essential services question were ruled out of Order by the Speaker.

Proponents of the Bill have attempted to muddy the waters, claiming that federally-regulated essential services are protected by section 87.4 of the Canada Labour Code. That is false. If one reads section 87.4 it is clear that, rather than protecting "essential services", like banking, railways and the telephone network, it is more accurately defined as an "emergency services" provision that only applies when there is an "immediate and serious danger to the safety and health of the public".

Quebec and British Columbia, the only two jurisdictions to ban replacement workers, both have provisions in their labour codes to require the maintenance of essential services in the event of a labour dispute. These are much broader than section 87.4 and might be described as "public welfare" provisions. They have been used to require the maintenance of ferry services and subway operations during work stoppages. There is no equivalent provision in the federal code.

While the lack of a "public welfare" provision is a serious shortcoming, there is another more important factor to consider. It is clear that the federally regulated industries play a different and more critical role than those industries that are solely provincially regulated. Federally regulated industries—like transportation, communications, and banking—form the backbone of our economy and our society. Other industries rely on the federal sector to provide the services they need to remain in operation and create jobs for Canadians. Canadians also rely on the federal sector to be able to withdraw their money from an ATM, to visit a relative in another province, to look something up on the Internet, make a phone call to a client or turn on the television to get a weather update. In the day-to-day lives of ordinary Canadians, all of these services, and others, have become "essential".

The reality is that the federal sector is essential, with or without an "essential services" provision in the law. This is not just a theory, as we saw during the recent CN strike. Even though CN was able to remain in partial operation, the strike caused considerable damage to many industries—including autos, chemicals, oil, forest products, grocery operations—resulting in plant closures and lay-offs. This reminded me of how things used to be. For several decades Parliament was continually required to pass legislation to bring an end to work stoppages because of the severe hardship they inflicted on the public and the economy. However, since the well-developed amendments passed in 1999 this has not been required once. If Bill C-257 is passed there is every likelihood that Parliament will again be required to perform this role since we will be destined to have more work stoppages as the ability of employers to operate will be seriously impaired.

To put it simply, the passage of Bill C-257 would result in the federal jurisdiction having the weakest protection of essential services in Canada, while also covering those sectors with the responsibility for the greatest number of essential services. Any labour disruptions could have an extremely detrimental impact on our national economy, and legislators could expect to be called on to pass back-to-work legislation.

Fortunately, there is an alternative. The current Canada Labour Code came into being after years of impartial study and with a conscious effort to strike a balance between the parties. This has resulted in a period of labour peace that has been a cornerstone in Canada's strong economic performance. Indeed, not once since the enactment of the Labour Code amendments in 1999 has the Canada Industrial Relations Board needed to adjudicate on the issue of replacement workers. Given that labour relations are functioning smoothly in this country, and given that Bill C-257 is driven more by ideology than by a crying need to right some perceived injustice, I encourage you to vote against the Bill at Third Reading. Vote to maintain the balanced approach to labour relations that has resulted in prosperity for all Canadians.

Yours sincerely,

A handwritten signature in black ink that reads "Don Brazier". The signature is written in a cursive, slightly slanted style with a horizontal line underneath the name.

Don Brazier
Executive Director, on behalf of the FETCO organizations: