



**National Day of Mourning - April 28, 2015
Workers' Health and Safety Matters Most**

Today We Mourn, Tomorrow We Organize!

April 28, the National Day of Mourning, has been observed in Canada and around the world since the mid-80's.

At the 1984 Convention of the Canadian Labour Congress a resolution was adopted declaring April 28th as a "*National Day of Mourning*" to honour those workers in Canada who have been killed, injured or disabled on the job, or who suffer from occupational diseases. April 28th was chosen because on that day in 1914, Ontario proclaimed the first comprehensive Workers Compensation Act in Canada.

Today more than 100 countries recognize April 28th. The day is also acknowledged by the International Labour Organization; (ILO), the International Confederation of Free Trade Unions; (ICFTU) and the American Federation of Labour;(AFL-CIO).

The Canadian labour movement lobbied for legislation to identify April 28th as a "National Day of Mourning." In February 1991, Federal Parliament passed the "Workers Mourning Day Act".

This April 28th, the Canadian flag on Parliament Hill will again fly at half-mast. Workers will light candles, don ribbons and black armbands. Wreaths will be laid in ceremonies and a moment of silence will be observed. Businesses and politicians will be asked to participate and to do their utmost to prevent workplace deaths, injuries and illnesses.

Yet, despite all of this, the stark reality is that last year (2014), 29 workers in Newfoundland and Labrador died as a result of workplace injury or illness. In 2013- 30 workers lost their lives for the same reasons.

It is shocking to think that since 1993 there have been over 16,000 worker fatalities in Canada. It is harder to fathom that fatalities over the past 15 years have actually increased, in large part due to the long latency period for some occupational diseases.

Every year across Canada almost 1,000 people are killed at work. Canada has one of the worst safety records of the developed world.

Each of these workplace deaths were preventable.



-2-

Bill C-45 - The Westray Bill

"The fundamental and basic responsibility for the safe operation of an undertaking, rests clearly with management. Management failed in this primary responsibility and the significance of that failure cannot be mitigated or diluted simply because others were derelict in their responsibilities."

Justice K. Peter Richard, Commissioner, Westray Mine Public Inquiry

In March 2004, to great acclaim and with the support of a unanimous House of Commons and Senate, the Governor General signed into law amendments to the Criminal Code of Canada, Bill C-45. (The Westray Bill)

These amendments were inspired by the deaths of 26 men when the Westray coal mine in Pictou, NS exploded on May 9, 1992.

In the years since the passage of the Westray Bill, only a few charges have been laid, with minimal consequences for employers. Yet the killing continues.

In fact, since the passing of the Westray amendments there has actually been an increase in workplace fatalities.

What Canada needs is a societal change in how we look at death, illness and injury caused by work. The 2004 Criminal Code amendments must be enforced.

Specifically, we are seeking support and political will – just as we did in the aftermath of Westray – for these specific actions to ensure enforcement:

- ▶ Educate, train and direct Crown attorneys to apply the Westray amendments;
- ▶ Give responsibility for health and safety fatalities to dedicated prosecutors;
- ▶ Educate, train and direct police to apply the Westray amendments;
- ▶ Ensure greater coordination among regulators, police and Crowns so that health and safety regulators are trained to reach out to police when there is a possibility that Westray amendment charges are warranted.



-3-

Workers Need Strong Laws And Strong Enforcement

The Day of Mourning acts as a reminder that we need to strengthen our commitment to healthy and safe workplaces to ensure all workers return home each and every day. No matter how strong the legislation, if it is not enforced, or if the employers' bottom line takes precedence over healthy and safe workplaces, then each of these workers will have died in vain.

While working to keep our workplaces healthy and safe, we must also ensure that those who are injured are compensated fairly so that they can continue to provide for themselves and their families.

Consider as well, in Newfoundland and Labrador, 15 workers are injured on the job daily. In addition, one of those 15 injured workers will not return to work as a result of a permanent disability. In 2013 there were 261 serious work-related injuries.

In April of 2013, the Federation of Labour made a series of recommendations to the Workers Compensation Statutory Review that were based on the experiences of our members and their families.

Newfoundland and Labrador has one of the lowest compensation rates in all of Canada. We continue to push for an end to the imposed ceiling and the reduction in earnings injured workers face as a result of workplace injury or illness. How can a worker lose significant earnings as a result of an injury they never planned for or wanted? It is our position that workers should never be doubly-penalized as a result of an injury incurred in the workplace.

As we try to make sense of the recent tragic death of Mr. Don Dunphy, we should never forget that he suffered, physically and emotionally from work-related injuries. The compensation he received as a result of his injuries made it difficult for him to pay his bills and live in dignity.

Sadly Mr. Dunphy is not alone in this circumstance. Too many workers who experience a workplace injury or illness find their worker compensation benefits do not replace their pre-injury earnings. Far from it. In fact injured workers can expect to see a considerable drop in their earnings as a result of a workplace injury. If you are the main breadwinner families too will suffer deeply.



-4-

The current cap by which workers compensation benefits are paid out does not adequately cover the lost earnings of all workers. We believe that employers' assessments should never be reduced until it does.

"No fault" should mean "no penalty".

It is also evident that far too many workers such as firefighters, shellfish plant workers, miners and many others, face occupational hazards on a regular basis.

The NL Federation of Labour has been calling for the establishment of an Occupational Health Clinic, as found in Manitoba and Ontario, that would provide expertise and services to help reduce the human and financial costs of workplace injuries and illness in the front end while providing the proper medical management to those in need.

Workers sometimes need help to manoeuvre the system that becomes complicated, especially when initial claims are denied. They often need help preparing and presenting their cases. That help should always be available to them. Sadly, this has not been the case as of late.

In 1913 Ontario politician and Judge Sir William Meredith tabled the Meredith Report that laid the foundation for the system of workers 'compensation in Canada. As a result of the "Meredith Principles", which was an historic compromise, employers agreed to fund the workers' compensation system, and injured workers in turn surrendered their right to sue their employer for their injury.

This "no-fault" system guaranteed the injured worker was paid benefits that were secure. Has the Meredith Principle worked? Can you imagine the system if workers were able to directly sue employers for a workplace injury? The fact is, employers are getting a very good bargain here.

It is time for change. The Newfoundland and Labrador Federation of Labour calls upon the Government of NL to move on the 42 recommendations that came about as a result of 2013 "*Statutory Review Committee Report*". It is time we strengthened meaningful worker engagement and participation through strong active and proactive occupational health and safety committees.

We need policies and positive legislation that will help ensure that workers come home safely at the end of every work day. We demand a workers' compensation system that is truly no-fault.



-5-

Workers Health and Safety is an Election Issue

This year, both Federally and Provincially, citizens have an opportunity to ensure the people we elect are committed to workers' health and safety. Think about it when you vote.

The Canadian Labour Congress is making workplace health and safety an election issue. They are calling on their 3.2 million members to make sure the people they vote for are committed to improving workplace and workers' health and safety.

We need a government that is willing to prosecute employers under the Westray laws and provide leadership and guidance to the provinces and territories.

We need a government that will seriously and proactively address the health and safety risks posed by asbestos and other toxic substances in workplaces.

We need a government committed to creating new jobs that are fulltime and safe, instead of precarious work – proven to be more unhealthy and unsafe.

Workers deserve no less!

*MS/lr
Unifor 597*