



# **BILL C-377: A BILL DESIGNED TO STIFLE VOICES OF OPPOSITION AND GUT THE LABOUR MOVEMENT**

A Canadian Teachers' Federation Brief on  
Bill C-377, An Act to Amend the Income Tax Act (requirements for labour organizations)  
submitted to the  
Senate Standing Committee on Legal and Constitutional Affairs

**January 2015**



Canadian Teachers' Federation  
Fédération canadienne des enseignantes et des enseignants

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## Introduction

The Canadian Teachers' Federation (CTF) is an alliance of Member organizations representing nearly 200,000 teachers in every province and territory in the country. CTF's mission is to serve as a unified voice of teacher organizations in Canada on education and related social issues by promoting high quality public education, the status of the teaching profession and the freedom to learn.

The initial version of Bill C-377 – Bill C-317 – was taken off the order paper by the Speaker of the House of Commons as the penalty envisioned for non-compliance created a new class of taxpayer and thus required a ways and means motion. The mover was given an opportunity to submit another item to the agenda and then subsequently given additional time to do so. Bill C-377 was read for the first time December 5th 2011 and was subsequently described by Hon. Hugh Segal as having “in the view of the vast majority of witnesses, fatal flaws as to the constitutional violation of sections 92 and 91 of the British North America Act, the Charter of Rights and Freedoms, freedom of speech, expression and association as protected by that very Charter of Rights and Freedoms<sup>1</sup>”. In spite of a 2013 decision by the Senate to amend the Bill and send it back to the House of Commons, we see a return of C-377 in its original form.

This brief outlines some the CTF's concerns regarding Bill C-377, in particular the stated purpose of this legislation – Accountability through Transparency.

## Accountability

Teachers are familiar with accountability. There are two questions that need to be asked when considering any call for accountability – to whom and against what measure one should be held accountable.

Teacher organizations, like governments, are formed of elected officials accountable to their electorate for decisions that they make or the positions that they take. As in government, institutional decisions are made either by a vote of every member or by a vote of elected representatives. Majority decisions guide policy, lobbying, constitution and by-laws, and fees and budget. Representatives vote on budgets and fees and have opportunities to discuss the benefits of expenses numerous times over a year.

Just as in government, once a decision is taken by the majority, the accountability for that decision rests with them. Measuring the organization's actions in relation to those decisions – accountability – also rests with the membership. The originators of Bill C-377 suggest it makes labour organizations more accountable; but to whom? If, for example, members of our Federation wanted us to be more accountable, they would amend our by-laws to make it so. Regarding whether or not labour organizations should be accountable to the public in the way proposed in this legislation, we say no because it uses public reporting under the guise of transparency as a measure of accountability while creating other unacceptable consequences.

Problems occur in education when instruments designed for one purpose – assessing students, for example – are used for another purpose like comparing schools or school systems.

Contrary to what it purports to do, the reporting and posting requirements envisioned by Bill C-377 do not increase accountability because union members, including teachers, have always had access to any information they need to guide their decisions in directing the actions of the union. World wide access to this information has no valid purpose. Non-members have no voice in union affairs. They have neither voice nor vote on union business nor do they have and have any vested interest.

While it has been suggested that this legislation is necessary to justify union tax breaks, it needs to be noted that unions do not get a tax break. Individual members get a credit against income just as do members of many non-union

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<sup>1</sup> Hon. Hugh Segal. Monday, June 17, 2013. Debates of the Senate (Hansard) Volume 148, Issue 175

organizations. Since this legislation may not include all of those groups like employer organizations or professional societies, the tax treatment of unions is an inappropriate rationale.

A consequence of this Bill, some say the real purpose of the Act, is to stifle voices of opposition and to gut the labour movement.

Teachers and the CTF agree with the importance of listening to varying voices; this is true both in the classroom and in wider society. This is why unions, including teacher unions, are formed in a democratic way. Members elect their representatives and make decisions only after debate and due deliberation. Senator Segal eloquently stated this sentiment with respect to Conservatives:

*Hobbling one part of the debate is not what mainstream Conservatives should ever want to do to legislators at any time. There will be agreements, disagreements on occasion, difficult strikes and challenging choices. However, the civility of that debate is sustained by how open it is to all who are legitimate stakeholders in any economic outcome. Trade unions and public sector unions are part of those stakeholders, and they are legitimate.<sup>2</sup>*

Bill C-377 is not about accountability. It is:

- red tape and paperwork, and;
- destruction of the balance in labour relations that has served this country well for over a century.

The Canadian Teachers' Federation continues to believe that C-377 has:

### 1. Jurisdictional flaws

The CTF and its Member teacher organizations make their decisions in an open and democratic way. Financial statements are open to all members; budgets are voted upon and spending is monitored by the membership; financial reports are audited professionally and distributed to the membership on an annual basis. Currently the Canadian Labour Code, nationally, and legislation in most provinces/territories require that financial statements of unions be provided to members. It is inappropriate to attempt to utilize the Income Tax Act in a manner many believe is outside its constitutional scope.

The federal government by this legislation would amend federal tax law to tamper in what is clearly an issue within provincial/territorial jurisdiction. This legislation will initiate numerous and costly court challenges.

### 2. Issues of cost & fairness

There would be a significant cost to unions – affecting over 25,000 labour organizations in Canada – and a cost to Canadian taxpayers estimated by both the Parliamentary Budget Office and the CRA as being \$11Million in the first year with on-going costs of \$2 Million per year. This would entail developing the regulations needed to enact the legislation; developing and preparing all of the forms and instruction booklets required; developing the software programs to file, receive and process the information including the need to employ auditors, accountants, lawyers and administrative workers for this purpose; and developing a massive online searchable database. Such an outlay of public funds cannot be justified.

The burden placed on unions to comply with C-377 would take away from their ability to represent their members. When considering the adverse effects on labour unions caused by Bill C-317, the mover suggested that members could just choose another union that was not adversely affected by the penalties imposed. Speaker Scheer rightly pointed out that “[w]hile this is more a question of labour law than procedure, the Chair

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<sup>2</sup> ibid

is aware that members of a labour organization cannot easily change which union they belong to nor can they simply withhold paying their union dues except in extremely limited situations provided for in the law<sup>3</sup>. While the penalties now proposed in C-377 make the Bill technically in order (whereas its predecessor C-317 was not) the fundamental truth remains that union members in Canada will potentially see the effectiveness of their representatives curtailed and their collective voice diminished.

### 3. Privacy concerns

A host of privacy rights would be violated under Bill C-377. Without amendment the likelihood exists that Canadian mutual fund owners, pension recipients and joint union-employer pension or health insurance arrangements will be swept into the disclosure provisions of the bill as labour trusts. Individuals, who have paid into plans and who become eligible to receive a payment of more than \$5000 in any one year, will have their privacy invaded.

Similarly, trade union employees will have salary disclosure levels that are far more rigid than those established for senior public servants and Crown corporation employees. This forces unions in Canada to disclose salary levels that are often far lower than those of corporate executives or senior public servants.

The effect of this breach of privacy is to open the books of labour organizations to those with whom they might negotiate. Even after amendments, Bill C-377 would require the divulgence of information that could be unfair to unions and their suppliers at best and unconstitutional at worst.

### Final comments and recommendation

What is driving this ideological attack on unions? Bill C-377 was not conceived in a vacuum but in a context perceived by many to be attempts at weakening labour activities and undermining collective bargaining in this country. This Bill facilitates greater federal interference in provincially and territorially regulated labour relations. The Bill intrudes into the internal affairs of unions with a potential to severely undermine the ability of a union to serve its members.

We know that recent research is clear in the correlation between the declines in union membership and the growth of inequality in a country. This bill, by changing the balance, will increase inequality. The IMF and the OECD are for the first time identifying the growth of inequality as a negative factor for economic growth. Recent research also makes a direct correlation between the growth of inequality and the increase in health problems in a country. The unintended consequences of this bill may have negative impacts beyond union members and are likely to harm society on multiple fronts.

Teachers work hard to develop learning founded on a principle of critical thinking. We are teaching our students to look at their society and to work in positive ways to make change where necessary. It is obvious that Bill C-377 does not make positive change to Canadian society and would even be harmful. Notwithstanding any specific concerns raised regarding this legislation, amendments will do nothing to correct the fundamentally flawed premise that inspired this Bill. For this reason, we respectfully submit that this Bill must be withdrawn or defeated in its entirety.

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<sup>3</sup> Speaker Hon. Andrew Scheer- November 4, 2011

