



Virtual Research Centre (VRC)

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February 2013



Canadian Teachers' Federation
Fédération canadienne des enseignantes et des enseignants

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How would you characterize the changing political and economic context facing teacher unions (and/or public sector unions) in your jurisdiction?

This was one of the questions addressed by an international panel at the American Educational Research Association (AERA) Annual Meeting held in Vancouver in April 2012. The panel was organized by the AERA Special Interest Group on Teachers' Work/Teachers' Unions. The Canadian Teachers' Federation had the opportunity to provide the Canadian perspective on this important question.

Drawing largely from the AERA presentation, this article looks at Canada's ideological shift to the right, government responses to deficits and debt, the shifting drivers for decision-making on education funding and policy, and government interference with collective bargaining and the attack on unions and labour rights including the latest attack – Bill C-377.

Canada's ideological shift to the right

While this general ideological shift began earlier, in tracing the electoral shift to the right one could begin in 2006. The Liberal Party of Canada, sometimes referred to as the party with the “divine right to rule”, was reduced to minority status under Paul Martin after the sponsorship scandal. Then slowly, the Conservatives under Stephen Harper began to gain ground. In 2006 the Conservatives emerged as the head of a minority government, and again in 2008 won another minority, each time increasing their seat number. Early in their first minority government it is said a Conservative Cabinet Minister stated that, “you will not recognize Canada when we are finished with it”. Governing with a minority as if they had a majority, anticipating an election weary country, the Conservatives began implementing their brand. Now they have a majority as a result of the 2011 election, and already the Canada we knew and loved is becoming unrecognizable.

Under the Conservatives we have seen, to name only a few changes, increased military expenditures, cancellation of the mandatory long-form census, elimination of the long gun registry, plans to build more prisons in the face of declining crime numbers (as part of a tough-on-crime agenda), repudiation of the Kyoto pledge on the environment, and the introduction of a controversial Bill that would have allowed for private internet messages to be accessed without a warrant, which resulted in the “Vickileaks” scandal.

In addition, over the past several years the Conservative government has cut funding to a long list of organizations which advocate for human rights, women's equality and humanitarian immigration policies as well as those involved in international development work (Gergin, 2011). For example, CIDA funding for CTF's International Programs which for the past 50 years have assisted teachers and students in developing countries around the world, was cut completely in 2011.

Gergin observes that,

...the Harper government has expressed its intolerance of dissenting views, independent decision-making, and critical discourse in ways that have come to threaten basic democratic values In disempowering those who have supported unpopular causes, spoken on inconvenient topics, or made dissenting statements, the government has not only stifled the vibrant critical discourse needed to promote a healthy democratic community, but has also been shrugging off its public responsibility to safeguard a space in which such discourse can take place.

In direct contravention to typical Conservative party values, the Harper government continues to find ways to quash debate on issues by introducing omnibus budget bills and minimally debated trade deals like that signed with China, causing one Financial Post columnist to remark: "I am a free enterpriser, a free trader, a small 'c' conservative and an experienced business person and believe this agreement represents a naïve, shocking lapse in judgment." (Francis, 2012)

Provincially we have, despite their name, conservative governments in British Columbia, Alberta, Saskatchewan, New Brunswick, Newfoundland, and more recently it seems, Ontario to name a few.

Government response to deficits and debt

Much of the Conservative agenda is being justified in the interest of fighting a deficit. It is important to examine how we arrived back in a deficit budget position in the first place. Consider that in fiscal year 2006-2007 Canada would enjoy its tenth consecutive year with a budget surplus.

So what happened in five years to put us back into a deficit position?

During the opening of Canada's 40th Parliament in November 2008, Finance Minister Jim Flaherty indicated that Canada would have a \$30 million surplus in the existing fiscal year, and was not going into a major recession. In December 2008, Harper asked then Governor General Michaëlle Jean to prorogue Parliament. She agreed with the understanding that the House would reconvene

in short order. In January 2009, following the prorogue of Parliament, Minister Flaherty stood in the House and delivered a budget address that would have been seen as impossible only two short months earlier. The Liberals picked a new leader, moved away from the Bloc/NDP coalition and supported the budget.

For the first time in a decade Canadians would hear the words “deficit” and “recession”. The budget that Minister Flaherty announced would see Canada have, in the next two fiscal years, projected deficits of \$34 and \$30 billion respectively. Additional spending would address the serious job losses resulting from the international economic melt-down precipitated by the sub-prime mortgage crisis in the U.S.

But it was other aspects of this and future federal budgets that would seriously impact on the revenue side. Two significant decisions were taken: the GST was lowered from 7% to 5%, and corporate tax cuts in subsequent budgets would follow a trend started with the federal Liberals by lowering the corporate tax rate from 22% in 2007 to 15% in 2012, projected to be the lowest among the G7 nations.

The result? Unemployment numbers continue to be problematic, especially among youth where Statistics Canada reported in May 2012 that 13% of Canadian youth were not in school or employment. Even though this rate is second lowest among G7 countries, youth underemployment may be a more serious issue as employed youth are working in areas outside of their training or in part time positions. People talk of a lost generation, even in Canada.

As of October 2012, 7.4% of Canadians were officially unemployed. When one factors in discouraged job seekers and involuntary part-time workers the real unemployment rate jumps to over 10%.

Past cuts to Canada’s Employment Insurance (EI) program mean that only 39% of the officially unemployed are eligible to receive benefits.

And the jobs created? Many are short term, contract positions with few if any benefits and limited future prospects. Many are what are referred to as McJobs in service industries. The gap between the rich and poor widens, with only the top 5% showing any significant growth in spending power over time. The middle class in Canada is being hollowed out; the average Canadian is working longer hours with no increased earning power for the vast majority. It bears repeating that the trickle-down theory is clearly not working.

And the government response? Austerity Economics – an increase in the age to access Old Age Security from 65 to 67, program cuts across government and the loss of thousands of public service jobs (especially in areas not deemed a priority to Conservatives), the move to erode support for defined benefit pension plans, reduced government and increased privatization.

In addition to raising the age of eligibility for Old Age Security (OAS) and Guaranteed Income Supplement (GIS) benefits from 65 to 67 to be phased in beginning a decade from now (and which the Canadian Centre for Policy Alternatives describes as “a message to future generations not to rely on government for help when you’re vulnerable”), the federal government’s budget released in late March proposed changes to pensions and cuts to public services including some 19,000 job cuts (the CCPA estimates that the total number of federal core public service job losses over the next three years will be closer to 30,000). The 2012 budget kills the long standing Katimavik program and closes youth employment centres. Funding for the National Council of Welfare has been cut along with funding for the First Nations Statistical Council and the National Round Table on the Environment and the Economy. CBC has seen its budget cut by 10%.

According to the CCPA’s Bruce Campbell,

the 2012 federal budget, which purports to deliver “jobs, growth and long-term prosperity,” does nothing of the kind. Make no mistake, this is an austerity budget – spending cuts outpace new measures 7:1 – that worsens income and inter-generational inequality, destroys jobs and locks in a slow growth, high unemployment future For the 1% who inhabit a different universe: this is a good budget. For the rest: it represents the slow motion dismantling of our collective commitment to care for each other that generations of Canadians built.

And the rhetoric? The right lobby has been able to use/manipulate the media to spread the message that vilifies unions, especially those in the public sector, who are simply fat cat employees who are protected by powerful unions and have better salaries, benefits, and pensions than everyone else. Apparently it is their fault that we have a deficit and debt, not the economic downturn fuelled by greed and de-regulation in the Wall Street financial sector, or the significant tax cuts described earlier.

Education funding and policy development

In keeping with the Conservative mind-set, decisions on education funding and policy development are increasingly being driven by an accountability agenda. With the introduction of the first Programme for International Student Assessment (PISA) tests by the OECD in 2000, we have witnessed a rapid increase in the extent to which outcomes on standardized tests are used to inform education policy decisions. Indeed PISA results, presented in league-table format, have become the proxy for the quality and performance of entire education systems. Provinces and territories have moved to introduce or enhance testing regimes.

Perhaps most troubling is the degree to which so-called experts outside of education are being sought out and listened to for advice. An example illustrating this is the austerity blueprint for Ontario authored by former TB Bank chief economist Don Drummond which recommended increasing class sizes and eliminating full-day kindergarten.

Another example is the response of Bill Gates in an interview with *Maclean's* magazine in September 2010 (Whyte). The interview, a front page story, came across as if he was talking about Canada's education system, and the final question looked like this:

Q: What has to happen in order to put students first?

A: If you just say that the bottom 10 per cent of teachers goes away because they don't measure up, then the U.S. goes back to being one of the best in the world. It's pretty dramatic.

One has to ask what makes Bill Gates an expert on education? And would he have a vested interest in saying this?

There are those who believe that there is a world-wide agenda, fuelled by large corporations, often with a technology focus, who want to revolutionize the way public education is delivered; in other words to privatize it.

Delegates at the 2012 CTF AGM in Halifax had the opportunity to discuss the topic of education as a public good. They identified several negative trends and pressures occurring across the country, in particular the "shifting drivers for education decision-making". This includes applying a business/market approach to education, the powerful impact of the test-driven accountability agenda on curriculum and other aspects of education, the use of public debt and the austerity agenda to justify cost-cutting at the expense of program needs, and the competition with other sectors, notably health care and services for seniors, for diminished resources, making decision-making increasingly political (Fraser, 2012).

In order to ensure the quality of public education in Canada, CTF strongly believes that policy decisions need to be informed by teachers' professional knowledge and expertise instead of being informed by those with little or no background in public education. In this regard one of our responses over the past few years, through the efforts of the CTF Work Group on Teaching Quality, has been to move to ensure that the teacher voice is not lost in the discussions and debate about the future of public education in Canada (see for example, *The Voice of Canadian Teachers on Teaching and Learning*, 2011).

Interference with collective bargaining / Attack on labour rights

Finally, the degree to which governments in Canada are prepared to intervene in collective bargaining is sobering and cause for concern.

At the federal level Labour Minister Lisa Raitt on Monday March 12, 2012 introduced back-to-work legislation in the labour disputes between Air Canada and its pilots and machinists unions. This was after intervening twice in 2011 with back-to-work legislation or the threat of such with two other groups of Air Canada employees.

In June 2011, nearly 50,000 postal workers were legislated back to work after a 12 day rotating strike that imposed a wage settlement less than the last offer postal workers received from Canada Post.

Provincially we have witnessed interference as well.

In April 2008, the Liberal government of Ontario legislated Toronto transit workers back to work after declaring them an essential service.

In March 2010, the Quebec government legislated 1,500 government lawyers back to work and imposed a five year deal.

In March 2012, the B.C. Liberal government passed legislation that disallowed strike action by the BCTF, imposed a “cooling off period”, and put in place a mediator with a mandate to negotiate nothing that would affect the “net zero” comparison to the previous agreement. Bill 22 included, laughably, an offer to pay teachers more if they accept class sizes over thirty students, and scary clauses that trample all over seniority provisions and class size/diversity provisions.

Back in Ontario, following the release in February 2012 of the Drummond Report, teachers found themselves negotiating through the media, and being forced to “negotiate” a provincial framework agreement under the threat of legislation. Passed in August 2012, Bill 115 saw unprecedented attacks on teachers’ rights to collectively bargain and a government willing to relegate decades of labour relations practices and legislation to the waste bin.

“Right-to-work” propaganda has recently crossed the border into Canada from our southern neighbor. U.S. style right-to-work laws essentially make it illegal for unions to require workers to pay dues. Canadian Auto Workers economist Jim Stanford notes that in the last year proposals for right-to-work style legislative changes have come from three provincial political parties – Saskatchewan Party, Alberta’s Wild Rose Party, Ontario PC Party. Federally, MP Pierre Poilievre has

launched a campaign to introduce changes that would preclude the collection of union dues from federally-regulated employees in unionized workplaces (Geddes, 2012). Stanford states that right-to-work ideas

...used to be terrain solely inhabited by the Fraser Institute and similar far-right camps, but no longer. Clearly the postwar mainstream consensus that unionization was something to be at least tolerated (or, initially, actively supported) as a mechanism for managing income distribution and workplace relations is long defunct.

Developments in the U.S. (including the northward spread of right-to-work laws, most recently to Indiana, and the dictatorial suppression of collective bargaining rights in Wisconsin and elsewhere) are clearly exerting influence (both economically and politically) north of the border.

Given the general enmity with which unions are currently viewed in many quarters, and the determination by both employers and right-wing politicians that trying to actually destroy unions is both economically and politically feasible, we need to be responding in spades to these arguments.

Bill C-377

Bill C-377 is only the latest attack on unions and labour rights in Canada.

Private Member's Bill C-377 – *An Act to Amend the Income Tax Act* (requirements for labour organizations) would amend the *Income Tax Act* to require that labour organizations provide financial information to the Minister for public disclosure. Reports would include details about spending on a range of activities including union organizing, collective bargaining, education and training, and political action, all of which would be made available online on the Canada Revenue Agency (CRA) website.

CTF's concerns regarding this proposed legislation are primarily focused on jurisdictional issues, the cost to taxpayers, and the invasion of privacy.

Currently most provinces require that financial statements of unions be provided to members. This Bill appears to create requirements that would normally be within provincial and territorial jurisdiction. This commentary from the Cox & Palmer Regional Employment and Labour Group Newsletter identifies a jurisdictional problem with the Bill.

The Bill applies to both provincially, as well as federally regulated unions. By framing the amendment as an income tax issue, which falls under the federal powers in the Constitution, the reporting requirements cross the

usual constitutional barrier which prevents the federal government from passing legislation which regulates unions under provincial jurisdiction.

In its submission to the Standing Committee on Finance regarding Bill C-377, the Canadian Foundation for Labour Rights states that,

As legislation primarily directed at labour relations, Bill C-377 is an unconstitutional intrusion into an area of exclusive provincial authority. While the federal government has the jurisdiction to pass legislation dealing with income tax matters, including legislation that affects trade unions, it cannot introduce laws that purport to deal with taxation but in fact are designed to regulate labour relations.

One has to wonder why the Federal government would amend federal tax law to tamper in what is clearly an issue within provincial/territorial jurisdiction.

While there would be a significant cost to unions – affecting over 25,000 labour organizations in Canada – to comply with this proposed legislation, the cost to government to set up the infrastructure to support this Bill could run into the tens or even hundreds of millions of dollars. In these times of government restraint it is unconscionable that the government would consider starting a program of such a scale aimed at one sector of the public.

Bill C-377 also raises questions of fairness as it singles out labour unions and does not apply to other professional associations that collect dues from their members. In addition, the disclosure requirements in the Bill in terms of detail and amount far exceed those required by charities and even publicly traded companies.

We believe that a host of privacy rights would be violated under Bill C-377. Provisions of the Bill may conflict with the federal *Privacy Act* and the *Personal Information Protection and Electronic Documents Act* (PIPEDA) with respect to personal information and commercial activity.

- Labour organizations would be required to disclose disbursements on legal activities over \$5000, potentially violating solicitor-client privilege, a fundamental tenet of our legal system.
- Trusteed pension and health plans (labour trusts) will have to disclose the details of all pension and health related expenditures over \$5,000, another violation of individual privacy rights. Specifically, plans will have to name members and beneficiaries who receive payments in excess of the threshold, including pension payments (i.e. monthly pensions, lump-sum termination, death payments) as well as those members receiving disability income, or other major services or treatments. (Hunter & DeBortoli, 2012)

- Another privacy concern involves commercial activity carried out by labour organizations. A detailed description of any contractual arrangement of a union with its suppliers exceeding \$5,000 would have to be posted on the CRA website – including names and addresses of suppliers, the purpose and a detailed description of the transaction, and the specific amount paid – thus making public (including to the supplier’s business competitors) the private business relationships entered into with suppliers.
- Bill C-377’s requirement for a report of all disbursements paid to union officers and employees resulting in their names, salaries and benefits being disclosed to the public is an infringement on the privacy of the employee and the employer-employee relationship.

Not surprisingly Bill C-377 has the support of such anti-union groups as the Fraser Institute, the Merit Shop Contractors, and the Canadian Federation of Independent Business because they want access to this information to utilize when combating union organizing drives.

The Canadian Foundation for Labour Rights states that,

Bill C-377 is a thinly disguised anti-union measure, designed to upset the balance of power in collective bargaining relationships across Canada. Bill C-377 not only intrudes on the provincial field of labour relations and violates the privacy rights of third parties, it interferes with the freedom of workers to associate, to organize, and to meaningfully advance collective goals with their employers.

Clearly, Bill C-377 is not occurring in a vacuum but rather a broader context of legislative and other actions being put in place that are 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 regulated labour relations. It is also an intrusion into the internal affairs of unions with the potential to severely undermine the ability of a union to serve its members. In sum, it is our position that Bill C-377 would be an unnecessary, costly, discriminatory Bill, so fundamentally flawed on many levels that it should be rejected in its entirety.

CTF is taking a strategic approach to mobilizing against Bill C-377. In addition to collaborating with the Canadian Labour Congress as well as our founding partners of the Canadian Foundation for Labour Rights (CFLR) – NUPGE and UFCW Canada, we have prepared a brief on Bill C-377 to the House of Commons Finance Committee, distributed to every MP and Senator with a meeting request. To date no Conservative MPs have agreed to meet with us to discuss our concerns with the Bill. We continue to monitor parliamentary proceedings and media coverage on the Bill, and the CFLR is hosting an international conference on the theme of “labour rights as human rights” in



Toronto in March 2013. Additional proposed actions include intensive lobbying at the constituency level by our members, and using resources from the CTF Defence Fund for a national campaign in support of labour rights in Canada. A communications strategy will also be developed to support this national campaign to defend and promote labour rights.

As we've attempted to demonstrate, teacher unions and other public sector unions in Canada face numerous challenges going forward, perhaps none more formidable than the current hostile environment for unions in general and the attack on labour rights in particular. It is critical that the voice of the labour movement including the voice of teachers as represented by their member organizations be heard on these issues. Democracy was founded on the premise of a respectful exchange of ideas. Abusing parliament to effectively silence opposing voices flies in the face of the very process we elect our representatives to protect.

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