



Submission

To the

Standing Committee on Finance

Respecting

Bill C-377, An Act to Amend the Income Tax Act
(Requirements for Labour Organizations)

Presented by

The Canadian Office of the Building & Construction Trades Department

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Who We Are?

The Building and Construction Trades Department, AFL-CIO, Canadian Office—commonly known as the Canadian Building Trades—is the national voice of organized construction workers. Our affiliated International Unions represent 500,000 skilled men and women working from coast-to-coast-coast in the building, construction, maintenance, fabrication and related industries. Our trade professionals are the people that build, maintain and provide society with its infrastructure and nowhere is this more prominent than in the energy and natural resources sectors.

International Association of Heat and Frost **Insulators** and Allied Workers

International Brotherhood of **Boilermakers**, Iron Ship Builders, Blacksmiths, Forgers, and Helpers

International Union of **Bricklayers** and Allied Craftworkers

United Brotherhood of **Carpenters** and Joiners of America

International Union of **Painters** and Allied Trades

International Brotherhood of **Electrical Workers**

International Union of **Elevator Constructors**

International Union of **Operating Engineers**

International Association of Bridge, Structural and Ornamental **Iron Workers**

Labourers' International Union of North America

Operative **Plasterers'** and **Cement Masons'** International Association of the United States and Canada

Sheet Metal Workers International Association

United Association of Journeymen and Apprentices of the **Plumbing, Pipe Fitting** Industry of the United States and Canada

International Brotherhood of **Teamsters**

THE CONSTRUCTION INDUSTRY

Vital, Multi-Billion Dollar Industry (Source - Statistics Canada)

- As one of Canada's largest industries, construction is an essential component of our economy. It represents 14% of Gross Domestic Product (GDP) respecting its impacts on all sectors of the economy.
- One out of 17 workers employed in Canada earns a living in the construction industry, of that 17 nearly half are our members.
- Over one million Canadian men and women are employed in many of construction's diverse crafts and professions.
- Construction workers are involved in the installation, repair or renovation of more than \$130 billion of work every year.
- There are over 20,000 general contractors and over 108,000 trade contractors.
- The average construction firm is quite small—95% have less than 10 employees.

Cyclical

- Construction projects are driven by the business cycle, which is different for provinces, and regions within provinces. This creates hot and cold spots—hot spots don't stay hot and cold spots don't stay cold.
- The construction industry is highly cyclical. It is subject to massive and unpredictable swings in demand. The supply of skilled labour must be in-sync with changing demand. The cyclical nature of the construction market requires employers to successfully operate in a boom-bust cycle.
- Most construction workers are hired on a short-term, project basis often through union hiring halls. This allows firms to enter and exit the industry in response to changing business conditions.

Transitory

- Both employers and employees are transitory in the construction industry—they migrate to hot spots temporarily and return home when the project ends. Employment is project-specific and generally short-term.
- Construction workers travel to work at different sites across Canada and work for multiple employers. Unlike many other Canadian workers, they do not work for a single employer at a single workplace. This has profound implications for policies and programs, such as Employment Insurance.
- The construction industry is highly fragmented, specialized and composed primarily of small companies.

WHAT ARE THE BUILDING TRADES UNIONS ANYWAY?

The Building Trades Unions are Craft Unions; they consist of people who have a set of skills within a particular craft or group of related crafts that find expression in doing highly skilled work, generally in the construction, maintenance and fabrication areas. These Unions are, in the main, well over a hundred years old and are International Unions. (International in this circumstance means Canadian and American). Unlike a significant number of other unions, Building Trades Unions are different. It must be pointed out that the construction unions in Canada are regulated by Provincial *Labour Relations* or *Trade Union Acts* that apply to all aspects of their operations, which includes the Duty of Fair Representation, duties under the Union's own regulatory structure and the reporting, disclosure and fairness obligations under those statutes.

Although it is awkward to describe something by saying what it is not, that is one way to establish who and what the Building Trades are. We build things; we maintain them and re-build them as they wear out. We support growth, we support the development of Canadian industries and resources and we support Canadian jobs. We do not oppose such growth. We are non-partisan albeit engaged in attempting to shape public policy where our members' interests require it. We give credit where credit is due, to all stripes of politicians, and we're keenly interested in advancing our industry. Unlike some workers' organizations we don't hate our employers, they are in fact our partners and if they do well, we do well. We often partner with

industrial or commercial owners to advance their causes because if they are successful we will have jobs in construction or maintenance in their facilities for years to come. We actually spend our own money on training and we're the strongest supporters of Canada's superb apprenticeship system.

There are a number of myths that abound about Unions and the Building Trades in particular, and perhaps those myths have enough force to obscure the truth.

WHAT EXACTLY ARE THE “MYTHS”?

Members are coerced into union membership

The first myth is that somehow Building Trades Unions extort union dues from the unwilling. This is patently false! Virtually everyone who belongs to a Building Trades Union has opted to join the Union voluntarily. These people have gone to the Union Hall, filled out an application form, paid an application fee and have been accepted into Membership. Construction is a transitory business; when one of these workers is laid off by their employer, they go back to the Union Hall and are dispatched to another organized employer. Each time they come and sign the out of work register and accept a new referral to the next job they are volunteering for the Union again. There may be the odd person who is swept in during an organizing drive. If an organizing drive has been successful, a majority of the bargaining unit that was organized had to opt for the Union as volunteers. Those who vote against the Union may get swept in. This process is highly regulated and scrutinized by the applicable provincial Labour relations Board. This is a trifling number of people each year. Those who are unalterably opposed to the Union have 2 choices. They may quit their employment upon the Union being certified or when the particular job they were working on runs out (every construction job eventually finishes) they leave and find a job without a Union. When the job ends generally what happens is those workers who might have been opposed to the Union at first instance, usually go down to the Union Hall, sign the out of work list with everyone else and get dispatched to another employer. This is a second ‘choice’ point, having worked within the organized sector they opt to stay! They have made a choice. So – Union membership, at least in the Building Trades, is voluntary!

Consider for a moment a certification application that is successful, with most employees being in favour of the union and with some opposed. Once the Labour Relations Board issues the Certificate, the Union becomes the bargaining agent for all employees. It assumes the onus of

representing them and must do so having regard to the Duty of Fair Representation set out by *the Labour Relations Code*. It bargains for all, represents all, and administers the collective agreement for all. To pay for these services (and a host of other ones) the people within the bargaining unit pay union dues. They become members and they have voice and vote in the operation of the Union. Every 2 or 3 years, depending on the province, they have the right to reconsider whether or not the Union should continue as their representative; at that time they may choose a new bargaining agent or no bargaining agent at all. If you think for a brief moment -- doesn't this sound like the way government operates?? Once a government is elected it becomes the government for all, it acts for all and it is paid for by all with taxes. We have the right to gripe about the quality of government and to vote for the 'other guy' next time but we still have to pay our taxes. We cannot choose to only pay if our party wins or only pay for the programs we really, really like. The mini-democracy of the work place operates in just the same way.

The Union Bosses run the Union regardless of what the members want

The next myth is that Unions are governed by "Union bosses" with no input from their members and are not transparent in any way, shape or form. This is pure rubbish. The membership elects their leadership, if they are getting the 'run around' or if they don't like what is going on, they elect someone else. The number of people who come out to vote in Union elections exceeds, far and away, the number of people that vote in federal elections. This is an act of democracy. The leadership reports to its constituency at every monthly meeting. These are lively, engaged and democratic events.

Unions spend without regard to what the members think

The next myth is that Union dues are generally spent on things that the members would not approve of if they knew the Unions were spending that money, that way. This is also rubbish! Unions have budgets; they are approved by the membership (our shareholders) and approved in advance. The finances are dealt with at each monthly meeting. Annual audited financial statements are available at meetings for the membership and members who have a query are entitled to go to the local Union office and get the information. This right to information is guaranteed by most Provincial *Labour Relations Statutes* and by the *Canada Labour Code*. In our certified survey of members done by Leger Marketing, over 51% of 735 people surveyed indicated that they had obtained information in this manner. Another 72% knew the procedure to get the information if they wanted it. **We are open and transparent to our members. They are the people who deserve to have the information.** It is not our business competitors who,

courtesy of the largess of the Canadian taxpayer, should have the opportunity to plumb the internal workings and expenses of every Union in Canada.

We have said that Unions are a democracy; as in any democracy, majoritarian principles apply. Within the current Government of Canada, there are opinions on how tax dollars ought to be spent. Some members of government support one set of proposals and yet others support other ideas. At the end of the day the majority rules and caucus decisions become Government decisions. Isn't that a sensible approach to run a socio-economic member driven benevolent advocacy organization? Please remember, Union members approve of how Union dues are spent. So, the hubbub about the misuse of Union dues is just positioning for those who would like to see unions unable to raise much capital by way of union dues and to be restrained in the application of those funds.

Unions pervert the Political Process

The myth supposes enormous amounts of monies are spent by Unions on political action: this myth abounds and our detractors play on it unmercifully, notwithstanding that they know it is untrue. Federally, and in some provinces of Canada, Unions and Corporations are barred from contributing money to political parties and campaigns. Where this is the law, we obey the law. In other jurisdictions Unions and Corporations are entitled to engage in the funding of political activities, many of those entities choose to do so. If it is permitted by provincial law, in an area of provincial competency, it not ought to be regulated by a Private Member's Bill such as Bill C-377. It ought not to be overridden by such a Private Member's Bill either. Union spending on Federal Politics is already prohibited by federal election spending laws. If Provinces (who are constitutionally responsible for the regulation of trade unions, as well as for their own provincial election spending laws) decide that this type of legislation is necessary – the Provincial Legislature is the proper place for it. (A number of provinces have actually done so!)

If a Union member or Union employee is engaged in political lobbying and he is paid to do so, he/she meets the threshold required to register under the *Lobbyist Registration Act* and they do so. That is transparent. This system functions well, the system is not broken.

Union Dues are Paid for by Tax Payers

This myth is a huge whopper, in which Unions are funded by tax dollars and therefore everyone needs to know what Unions spend that money on. This is plainly and simply the worst form of sophistry. It is nothing but spin. Unions get no funding from government. Union members are able to deduct from income, as a business expense, the cost of their Union dues. This is exactly

the same situation that obtains for members of professional corporations, doctors, lawyers, accountants, etc. There are at least as many people in professional organizations and at least as much money that is tax deducted for professional associations. Why are those associations not required to comply with Bill C-377? Further, every member based advocacy organization, like a constructors' association gets the same ability to deduct association dues from income, why is this not a similar concern?? There is no adequate answer to that question, other than Unions are "evil" and must be carefully scrutinized!

The MERIT Shop collects its money in the same way as a union, from an employer check-off; why are they not included within the *Bill*?? Aren't they funded by tax dollars that the Government of Canada forgoes to collect by allowing MERIT dues to be a 'business expense' – for that matter so is a ticket to the Blue Jays game or a business dinner!! No one from MERIT wants those tax payer 'funded' expenses reported publicly!

If it is sauce for the goose, then.....

How extensive will the reach of this *Bill* be?? If the logic of C 377 is correct then every business expense deducted from income (corporate or personal) is taxpayer funded and ought to be open for tax payer scrutiny. Consider for a moment what the effect this would have on either a publicly traded company or on a "Mom & Pop" shop?? The level of disclosure under the various *Securities Acts*, because of the nature of many of taxpayer funded 'gifts' to business ought to be re-thought.

Political parties get to issue receipts for donations and those receipts turn into 'deductions' from taxable income. It would seem to be inescapable, given the nature of political parties, to suggest that they are private clubs and they do not get funded by citizens who get a 'tax break'. So ought they not to be required to make the same sorts of manifold disclosures??

THE SIMILARITIES OF UNIONS TO PROFESSIONAL ASSOCIATIONS AND OTHER BUSINESS MEMBER DRIVEN ADVOCACY ORGANIZATIONS

There are a number of similar organizations in intent, in practice, in organizational tactics, strategy, and the desire to influence public policy that are exactly like Unions. These are

employer organizations, industry organizations, groups like the Merit Contractors and many more. Open up the yellow pages in any telephone book in a reasonable sized city or look at the tenant registry in any high rise office building here in Ottawa and you will see revealed thousands of industry organizations which are funded by business who seek to advance their interest. How are these organizations funded? They are funded by dues paid by companies that are members of the association. For example, a small contractor that belongs to the MERIT Contractors will pay \$00.08/hour to fund that Association. This money will do a number of things including giving the association the wherewithal to rail against everything that Unions do or stand for. The similarities between Unions and these business organizations are so striking that it is impossible to see why only Unions are contemplated as reporting entities under the *Income Tax Act*. They will not just be reporting entities but they will be reporting entities which are not protected by the non-disclosure provisions of that *Act*! If business organizations and professional organizations which are funded by member dues do not have to report, why would Unions be reporting entities? If the analogy holds true that the people of Canada forego the tax income from Union dues (obviously the amount of money paid to Professional Associations would also be a “donation from the people”) how much money does it allow business organizations to deduct for the dues they pay to the Chamber of Commerce, the Chamber of Resources, the Chamber of Mines??? These organizations have the same mandate and the same structure and goals as Unions. They are membership driven to achieve membership goals. Ought they not to be reporting entities as well? Unless this question can be answered satisfactorily, providing for the passage of Bill C-377 merely confirms what a number of people think, that the Government of Canada is content with the fact that the Private Member’s Bill is to target only the Unions and relishes the opportunity to bash those Unions! Union members are in exactly the same position as a shareholder in a private company or a member of a business organization. For all of the valid and subsisting reasons that business or business organizations are entitled to confidentiality is there any reason to forgo it for Unions?

If the policy reason for this *Bill* is the ‘public money funds Unions’ myth, then why does that not also obtain for these similar organizations? Someone who thinks about this for a few minutes, must assume that private business, private associations, the bridge and golf club don’t ‘report’ because they are a private club, they are responsible to their members and to no others – makes sense, right? Why would a union be any different – it may seem appealing to ‘Kick the Unions’ but you must carefully consider the consequences of this action on so many other entities and the requirements that the Government would create a ‘registry’ for so much. The real danger in this *Bill* is the growth potential for subsequent expansion of the reporting requirement to other similar associations, business and event those agencies that are here today in support of *Bill C-377*.

UNIONS ARE NOT CHARITIES

The Government of Canada regulates charities in Canada. Charities seek donations from the general public. We do not think it is onerous that they should provide some accounting of money that is paid for charitable purposes should have some form of disclosure. The disclosure required for charities is significantly less than that is contemplated for Unions. Moreover, like any other “business entity” Unions ought to be entitled to some degree of “business” confidentiality. That is why personal income, business income and business association income are presently protected under the *Income Tax Act*.

SOME OF THE THINGS BUILDING TRADES UNION DO FOR THEIR MEMBERS

For a Building Trades Union, life is complicated when it comes to the services that it provides for its members. They run the hiring hall, negotiate collective agreements, administer those agreements, seek certification and do all of the sorts of things that one would naturally expect a Union to do. But what the Building Trades Unions do is very much more complicated. They run the training centre and the apprenticeship program. These are either 1 or 2 trust funds that each Local Union and their employer partners provide in order to ensure the union’s members and the employer’s workers receive the best possible training. HRSDC did a study on Union training centers some 9 years ago. They concluded that there were over 300 training centers across the country that spend over \$200 million annually on training and have a brick, sticks and mortar capacity of \$600 million*. This is funded through collective agreements and not by government. It is our money invested in the future of our crafts and our country. Building Trades Unions run the health and welfare plan, the pension plan, the supplementary benefit plan, the supplemental E.I. plan, industry funds, labour management funds, groups like Trade Winds which train aboriginal people for careers in construction, diversity funds, community based funds and many more. Each one of these groups will be required to file. Why would they be required to file, simply because they are associated with the Union or its members??

*Those numbers today are 350 centres, with nearly \$300 million annual spending and nearly \$700 million in infrastructure. Building Trades Unions are the largest private trainer in Canada and second only to Government in overall trainers.

Let us make this clear by an analogy. Imagine two 500 person employer groups where the employer chooses to provide a health and welfare plan to its employees. One is union and one is non-union. They each cover the employees for exactly the same insurance coverage. The Unionized employer is going to pay more. Why? Because it is going to have to report under this *Bill* and the trustees of the Union fund (both union and management) are going to be left to decide which federal law they are going to break. The law that requires the disclosure contained in the *Bill* or the privacy laws that have been enacted by Parliament. This is a Hobson's choice -- and one that the Government of Canada should not entertain. Consider those 2 employers again, they have a pension plan. A pension plan has accumulated a billion dollars in it. The coverage's are identical. Both will report to the Provincial regulators who actually are responsible for the "management" of the fund. The Union entity will have to file a series of disclosures which has been described to us by professionals who do that sort of thing as "require a filing the size of a large cities telephone directory". This will not be accomplished for free or at any reasonable cost. It is just punishing the workers in the organized shop for being in the union??

The breadth of the organizations to which the *Bill* will apply is breathtaking; in its search to hunt down every evil union entity it will sweep in employers (who run the pension plan where there isn't a trust fund or trustees), employers' associations, benefit providers, insurance companies and a host of other unintended consequences. The fact that these other entities will be drawn in and be so surprised will be of cold comfort to anyone. Our **Helmets to Hardhats (H2H)** initiative with employers, owners and Government will be also drawn in. It will be cost for no gain even though H2H is a not-for-profit corporation under the *Canada Business Corporations Act* and must also report as a non-profit organization – if you think this is overkill you are correct!

COST

We will not dwell on this aspect for long; the proponent opines that the accounting is all there now and this will be just plugging a few numbers into a new form. This opinion is ill informed and just plain wrong! The professionals who deal with the financial affairs of the Unions and the Union Trust Funds are of a very different view. It will cost 20% more for administration of the various entities and this is confirmed by the US experience of our sister locals unions in the US.

The number of required filings will be eye watering – as illustration, Local 280 of the Sheet Metal Workers International Association in Vancouver will have to make 18 separate filings, Local 488 of the Plumbers in Edmonton will have to make 17 filings. Surely this will not be ‘free’ to the Union member – he will either pay more in dues or get lesser pension, dental benefits or services, the cost must be funded from somewhere.

Who will pay for the **Union Registry??** Parliament has gotten rid of one registration boondoggle, and this will create a new one. Just to receive the filings will mean staff, they must be put on the public searchable data base and there will need to be compliance audits and compliance teams to ensure confidence in the remissions to CRA. Where is the Royal Recommendation for this expenditure of public money??

PRIVACY

Both federal and provincial privacy laws expressly prohibit the sort of disclosure that is sought by the *Bill*. The Committee should be careful in recommending a law that would be in conflict with laws that already exist.

This privacy must also be extended to the solicitor client privilege that is eroded seriously by the *Bill*. There is no doubt that such a surrender of such a basic right is intolerable by any society that prides itself on the Rule of Law.

WHO’S ASKING??

Who is asking for this change to the *Income Tax Act*? If there were a ground swell of workers seeking the amendments there might be a pause and the need for deep thought, that is not however the case. Only the anti-union employers’ group is asking!

The only empirical evidence that exists is a very few polling results – the Nanos Poll (which The CLC has written to you about and which has been discredited by research from a professor from the University of Regina), the certified Building Trades Leger poll, the uncertified and

respondent directed Leger Poll for the MERIT Contractors, and the CLC poll. To say that the polls are both interesting and conflicting are understatement and clearly, at least some of them, are polls that sought the result that the sponsor wanted.

It seems, at least in the press, that the sponsor of this *Bill* has not had any Union members ask him to change the law. Other than the MERIT shop and a couple of other right wing ideologues who are unalterably opposed to Unions, no one else has come forward. The MERIT shop is an unabashed anti-union organization. It advocates for Union free construction and it is our business competitor. It has spent enormous amounts of money on its media advertising (including both print and television) and on its campaign in support of this *Bill*. The people who work for a MERIT contractor are not in a Union. What interest does MERIT have in people who are employed by their competitors? The answer to that should sound alarm bells to any person regardless of their biases (or lack of them) in respect of Unions. What interest does MERIT have in this? The answer is that it would be an intelligence bonanza for them in being able to know everything that goes on within a Union or any of its trust funds or other plans. This would be courtesy of the Canadian taxpayer and give them an enormous business advantage. That would not create a level playing field and we would ask you to consider this in your deliberations on this *Bill*. Should Merit have the right to exist, even though some might disagree with everything they do? Absolutely!! And they should be allowed to keep their confidential financial information confidential – and only available to those who contribute. All we are advocating for is the same right.

We would like to make this point another way – the *Bill* will require one competitor in a highly competitive business to ‘show you ours’ while the ones seeking such a peek remain fully clothed and protected from disclosure. Either they are seeking an economic advantage or they care so deeply for our members (who are not or likely to be their employees) that they feel the expenditure of their time, lobbying power and treasure is justified. Given that we live in the real world the latter explanation seems highly unlikely. The *Bill* will give MERIT an enormous advantage over its competition (the Union and the Union Contractor) -- is that what the current Government sees as fairness??

When you bring a number of the Conservative bedrock ideologies to bear, the *Bill* must fail. It is ‘nanny’ state legislation, it encourages the growth of bureaucracy, it interferes with the free market, it creates unwanted government intervention into the affairs of private citizens, private institutions and private business, it inhibits grassroots democracy, it puts the private affairs of citizens on display, it compels the surrender of basic privacy and legal rights, it interferes with the lawful activities of citizens and curtails their freedom to seek collective solutions to issues (the exercise of the Freedom of Association) and it intrudes into an area of provincial legislative competence.

CLOSING

On behalf of the Building Construction Trades Department and our almost 500,000 members from coast to coast, we thank you for taking the time to hear our presentation and to receive this brief.

We sincerely ask you to think about this *Bill*, while it may be amusing for some to ‘Kick the Unions – they aren’t our friends anyway’ there is more at stake than that. What is the Bill supposed to do?? It is ostensibly about ‘openness and transparency’ within Canada’s Unions. The *Canada Labour Code* and the various provincial *Labour Codes* already do that. There is no evidence whatsoever that the Unions fail to do this internally. This is a problem that no one from the unions has raised. Is it about controlling the money Unions spend on ‘politics’?? If so the Bill cannot accomplish its ends because the *Canada Elections Act*--already does that for the federal sphere and the provinces have the right to do so within their competence. ‘Kicking the Unions’ isn’t enough for the Finance Committee of the Parliament of Canada to impose this poorly conceived *Bill* on fellow citizens. **It cannot do what it purports to do!**

We would ask the Committee to reject this seriously flawed *Bill* for what it is and for what it seeks to do. Amendment will not redeem its flaws.

Thank you for your attention to this matter, please do not hesitate to contact the Canadian Building Trades for any further information that you may require.

All of which is respectfully submitted