



**Submission to the House of Commons
Standing Committee on Finance (FINA)**

**Bill C-377: An Act to amend the *Income Tax Act*
(*Labour Organizations*)**

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The Communications, Energy and Paperworkers Union of Canada (CEP) is the largest union in several key sectors of Canada's economy, including forestry, energy, telecommunications and media. The union's 110,000 members work at a wide variety of jobs in hundreds of different workplaces across the country. CEP's main activities include negotiating better wages, benefits and working conditions, protecting jobs, achieving equality, grievance representation, union education, organizing new members, political action, strengthening national and international ties.

Introduction

An Act to amend the *Income Tax Act (Labour Organizations)* is part of the Conservative government's efforts to weaken civil society organizations that articulate a worldview different from their own. Sponsored by Conservative MP Russ Hiebert, Bill C-377 is set for a third and final reading in the House of Commons this fall.

The Bill appears to address a problem that does not exist. Labour unions operate for the benefit of their members and, as such, the transparency, governance and operations of the organization should be a matter of concern to its membership. Bill C-377 would be very expensive to administer and would create bureaucratic red tape for government, businesses, employee pension and benefits plans and unions.

It is our strong view that the Bill must be withdrawn or defeated in its entirety, regardless of suggested amendments.

The Bill and its Consequences

Bill C-377 would require every trade union and labour trust (pension plan, training fund as well as health and welfare funds) to file a public information return with the Canada Revenue Agency (CRA) on all expenditures over \$5,000. It would also mandate labour organizations to detail their disbursements to officers, directors and trustees and the percentage of time these individuals dedicate to political and lobbying activities.

The Bill would allow employers and anti-union groups, at taxpayers' and unions' expense, to get detailed information about a union's spending. This would give them an unprecedented advantage in knowing the current position of the union they are bargaining with. It could provide them with information that would ultimately threaten collective bargaining rights and organizing drives. A similar database set up by the George Bush administration in the United States is used by anti-union businesses to weaken the position of workers.

Developing the regulations needed to enact legislation forcing unions to publish all expenditures would create new and wasteful public expenditures. For example, many auditors and accountants would be needed to oversee the filings. It would cost tens, if not hundreds, of millions of dollars for the CRA to compile detailed reports from the 55 national and international labour organizations, with over 25,000 local unions, plus 12 provincial and territorial federations and 130 labour councils.

The detailed reporting required by Bill C-377 would threaten individual privacy rights. Under the proposed legislation, labour-associated pension and benefit plans (which are not funded by union dues and are not directed by unions) would be required to publicly disclose "the name and address" and a "description" of benefits paid to individuals greater than \$5,000. This could include personal medical information. According to the CEP Pension Plan Legal Counsel Koskie Minsky LLP:

“Although the Bill is being brought forth as an amendment to the Income Tax Act, it really has nothing to do with taxation and everything to do with making it harder for unions to operate as a progressive force in Canadian Society. It will inflict considerable collateral damage on pension and benefit funds, even those which have nothing to do with how unions spend their money.”...”This Bill will make it much harder for both unions and benefit plans to operate. The United States Office of Management and Budget estimates that in the US, completing the forms under similar legislation requires approximately 550 hours of work each year for each union. Transparency is an important goal for all unions, but only as it relates to their members. Unions and pension funds should be transparent to their members and beneficiaries, but there is no justification for requiring total public disclosure of the minutiae of how money is

spent, nor is there any reason for the profound invasion of privacy that will result if Bill C-377 passes.” (*Koskie Minskie LLP, Pension and Benefits Report, Fall 2012 Edition*)

The proposed Bill and the proposed amendments are inadequate to protect the privacy of individuals. Usually, the disclosure of taxation information under the *Income Tax Act* is treated as confidential, but Bill C-377 would make all information openly accessible. By forcing unions to detail any payments over \$5,000 made to a legal firm, Bill C-377 threatens lawyer-client privilege. We believe the collection of such information is an intrusion into the private lives of Canadian citizens.

This Bill is discriminatory. There are over 90,000 organizations categorized by the CRA as non-profit. Yet, the Conservative government is not requiring other professional associations that collect fees or dues from their members, such as the Canadian Medical Association or Law Societies, to follow the terms of Bill C-377. The Canadian Labour Congress writes: “There is not a single organization in Canada – not a single publically traded company, not one of the 85,917 charities registered with CRA, nor one of the estimated 90,000 non-profit organizations with the exception of labour organizations, that will be required to make confidential detailed information publically available in the way this bill demands of unions.”

Proponents have justified this Bill with the argument that unions are subsidized by taxpayers because union members are able to deduct their dues from their taxable income. This assertion is simply not true. The same section of the *Income Tax Act* that allows for the deduction of union dues also allows any taxpayer who is a member of a professional association, like those mentioned above (Medical Association or Law Societies) to also deduct their professional dues. However, these deductions are not determined to be a ‘unique benefit or subsidy’ to their profession. It is the individual doctor, lawyer or union member who receives the benefit and not the organization to which they belong.

The bill demands that unions segregate “the percentage of time dedicated to political activities and to lobbying activities.” This is extremely difficult to do. A union representative might help with bargaining in the morning, walk a picket line in the afternoon and speak at a forum criticizing back-to-work legislation in the evening. What proportion of this would be lobbying or political activities? This element of Bill C-377 is an attack against the 1991 Lavigne Supreme Court decision, which protects unions’ right to engage in political activity without restriction.

There is a double standard in this legislation which would interfere with the right of workers to engage in collective political action all the while finding no fault with the political and lobbying activities of corporations (a collective of wealth-holders).

We believe unions are some of the few institutions that can and do counter-balance the overbearing power of corporations. Yet, this Bill does not require companies that bargain with trade unions to file detailed reports to the CRA on their salary, political or lobbying spending. Companies can set prices, sell products and put money into advertising, expense accounts or almost anything without oversight.

It would be ironic if in the name of “accountability” the Conservatives passed legislation that weakened one of the leading democratic forces in society. The United Nations, the World Bank and the Organization for Economic Co-operation and Development (OECD) have all concluded that unions contribute to the democratize the economic and political life of any given country.

Unions are some of the few mass-oriented organizations that function according to the principle of one person, one vote. The 3.3 million union members across the country all have the right to vote for their local representatives. There are no other non-governmental institution in the country that can claim such level of mass participation.

Conclusion

The CEP’s opposition to Bill C-377 does not indicate an opposition to greater transparency for Canadian institutions. In fact, every institution that significantly impacts this country’s social and political life should be held to high standards of transparency.

Unions need to be accountable to those who finance their operations, their members. All but three provincial labour codes require unions to provide standard financial reporting to their members. According to the CEP Constitution:

“Local Union financial statements must be reviewed by independent Local Union Trustees (or external auditors) and must be provided to each regular membership meeting (minimum of 4 meetings per year)”.

Furthermore, “financial reports of the national union must be provided monthly to Executive Board members (a majority of which are rank and file) and quarterly to every Local Union”. Our constitution also requires “that the financial accounts and records of the National Union are audited annually by a Chartered Accountant approved by the National Executive Board, with a copy of the audit report to be sent to all Local Unions.”

The CEP fully supports the submission and conclusions submitted to this committee by the Canadian Labour Congress (CLC) on Bill C-377. As we have stated in this brief, we believe that the Bill is an attack on unions and their members designed to weaken unions and give employers and anti-union organizations significant confidential financial detail on the internal operations of labour organizations while not having to provide similar information themselves.

As the CLC asserts, if Bill C-377 is adopted it would:

- restrict freedom of association and is contrary to Section 2(d) of the *Canadian Charter of Rights and Freedoms*;
- contravene federal and provincial privacy legislation;
- single out and discriminate against unions compared to other organizations similarly treated in the *Income Tax Act*;
- intrude into provincial jurisdiction with respect to the regulation of labour relations and unions;
- impose significant costs on the government and labour organizations.

This document is respectfully submitted on behalf of the Communications Energy and Paperworkers Union:

Dave Coles, National President