



BRIEF ON BILL C-377,

AN ACT TO AMEND THE *INCOME TAX ACT*
(REQUIREMENTS FOR LABOUR ORGANIZATIONS)

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STANDING COMMITTEE ON FINANCE

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RE: BILL C-377

An Act to amend the *Income Tax Act*
(requirements for labour organizations)

INTRODUCTION:

It is acknowledged that unions have made a tremendous contribution to improving the lives of workers. The vivid portrayal of worker abuse in the book, *The Jungle*, written by U.S. author, Upton Sinclair, in 1906, remains a stark reminder of how workers, in the absence of unions, can be exploited.

Since the turn of the last century, however, the role of unions has dramatically expanded. Because of compulsory union dues imposed by Mr. Justice Rand of the Supreme Court of Canada in 1944, unions have become wealthy, powerful, political entities involving themselves in many issues outside the work environment.

The prosperity and influence of organized labour in this country is based solely on these compulsory union dues. This is because union dues are used, not just for the purposes of collective agreements and other work issues, but also to support left-wing causes, including abortion, feminism, homosexuality, as well the Palestinians in the current Israeli-Palestinian conflict, etc. As a result, Canadian unions, with impunity, fund political and other non-workplace activities, even including election campaigns, such as the Ontario 2007 and 2011 elections. During these elections, unions funded a front organization called the "Working Families Coalition" to run attack ads. Similarly, unions in Alberta have used funds for radio and television attack ads under a front organization called "Albertans For Change". At no time, however, did

the Ontario or Alberta ads disclose the union connection of these front groups. Most recently, the Quebec unions, such as the Federation des Travailleurs du Quebec (FTQ), Centrale des Syndicats du Quebec (CSQ), and Confederation des syndicats nationaux (CSN) have all given financial and strategic aid to the students demonstrating on Montreal streets last spring.

Further the Public Service Alliance of Canada (PSAC) – the largest union of federal public servants in the country – endorsed the two Separatist parties in the September 2012 Quebec election. In effect, federal employees were compelled to pay union dues to an organization using its money to support the break-up of the country.

It is a fact that Canada is one of the few countries in the free world that forces workers to pay union dues. Canadian workers are required by law to pay union dues whether or not they wish to join the union. In most other countries, governments have decided that it is a basic human right to allow employees to choose whether or not to belong to a union, and have also reformed union laws to reduce the power of unions in order to protect individual employees and promote business flexibility.

NO LEGISLATIVE RESTRAINTS ON UNIONS

At present, there is no legislation in Canada to restrain unions. Legislation only covers issues such as the collective bargaining process, etc. Rules for elections of union leaders, the conduct of candidates, length of office, the fiduciary responsibilities of officers, and removal from office are governed almost entirely by the union's own constitution. Also, the duties and liabilities of union officers in Canadian law are found only in the governing unions' constitution.

As a result, there is little control of unions. Instead, they are seen as private corporations to operate as they see fit. There is a basic difference, however, between private corporations and unions. All corporations must conform to a legislative regime and regulations, under the Corporations Act. Corporations also carry out their business by way of voluntary financial venture capital, and by the public purchasing shares in that corporation. Workers in an industry, on the other hand, are forced by law to financially support the unions. As well, many union contracts with employers require union membership whether the employees like it or not.

In short, unions have become the godfathers of the left, using compulsory union dues as a battering ram to organize the fight for left-wing causes, regardless of the views of their own members. This was apparent in Windsor in July 2012 when the worker's union, Canadian Auto Workers' Union (CAW) organized a demonstration against a pro-life New Abortion Caravan organized by the Canadian Centre for Bio-ethical Research, which was traveling in that locality. The demonstrators for CAW were met, however, by a pro-life delegation, consisting also of CAW members, who objected to their union dues being used for a political purpose for which they were in disagreement.

TENSIONS WITHIN UNIONS

Unions argue that, by their use of compulsory union dues for their left-wing causes, they are working for democratic and human rights and better social programs for all workers. This is debatable. Their doing so has, understandably, caused tensions, characterized by Ken

Georgetti, the President of the Canada Labour Congress (CLC) as a “*class struggle*”.¹ Since unions have institutional ties with the opposition NDP and serve as political institutions, rather than economic ones, it is not a “class” struggle that is causing tensions. Rather, it is the differing political viewpoints within the unions themselves that are causing the tensions, as well as the public response to the unions’ activism by their use of compulsory union dues for political purposes.

PROVINCIAL CONCERNS ABOUT UNIONS

This uncontrolled power of unions appears to be a current concern with the provinces as well. This is evidenced by the paper, “ A Consultation Paper on the Renewal of Labour Legislation in Saskatchewan”. Some of the recommendations in this Saskatchewan consultation paper include allowing individual workers to opt out of paying dues, eliminating “dues check offs”, where an employer deducts union dues from employees’ pay on behalf of the union, and restricting unions spending membership dues outside of the work environment.

The opposition Progressive Conservative Party in Ontario has also drafted a consultation paper on labour unions, which recommends permitting workers to withhold dues, and to have the right to leave a union. In short, the Progressive Conservative Party in Ontario proposes removing the closed-shop monopoly that labour unions currently enjoy and replacing it with the right to opt out of membership and dues payments.

¹ Georgetti, Ken. (2011, Nov 22) Remarks at the Ontario Federation of Labour 11th Biennial Convention. Retrieved from www.canadianlabour.ca/news-room/speeches/clc-president-ken-georgetti-speaks-ontario-federation-labour-11th-biennial-conven)

SUPREME COURT OF CANADA ON UNION DUES

The matter of unions using compulsory union dues for social causes was raised in the 1991 Supreme Court of Canada case of *Lavigne v. Ontario Public Service Employees Union*, [1991] 2 S.C.R. 211.

In that case, the court held, per Wilson, J.

...Unions' decisions to involve themselves in politics by supporting particular causes, candidates or parties, stem from a recognition of the expansive character of the interests of labour and a perception of collective bargaining as a process which is meant to foster more than mere economic gain for workers. From involvement in union locals through to participation in the larger activities of the union movement the current collective bargaining regime enhances not only the economic interests of labour but also the interest of working people in preserving some dignity in their working lives.

She went on to say,

...drawing a distinction between collective bargaining and politics is so difficult it will always be debatable whether a union has 'crossed the line' in contributing its dues to certain purposes.

She then concluded that placing restrictions on the way in which unions spend their dues

...will lead to interminable problems and jeopardize the important government objective at stake in this appeal. [i.e. labour peace...]

These concerns however, have not materialized in the U.S., where the U.S. Supreme Court concluded in 1977 that unions could not, as collective bargaining representatives, constitutionally spend the funds of dissenting employees on "ideological" causes not germane to their duties.

In the *Lavigne* case, Mr. Justice La Forest, although he supported the conclusion of Wilson, J., as did Gonthier and Sopinka JJ., stated that it was up to the legislatures, not the courts, to draw the line between proper and improper use of union dues. He stated:

...A legislature may at some point ... decide that it will draw lines between proper and improper use of union dues. In the meantime, I think it would be highly unfortunate if the courts involved themselves in drawing such lines on a case-by-case basis. Such a result would ensue if the Court were to conclude that the limits on the appellant's s. 2(d) rights [freedom on association] in this case are not 'demonstrably justified in a free and democratic society'.

Accordingly, it is apparent that Bill C-377 falls well within the jurisdiction of Parliament.

THE EFFECT OF BILL C-377

Bill C-377 requires only that labour unions file with the Minister of Revenue an annual public information return, containing all union transactions and disbursements, salaries of officers and directors, and a record of the percentage of time dedicated to political and lobbying activities. Under this bill, unions will be required to provide statements on all contributions, gifts and grants, including all non-labour related expenditures. In short, this bill is attempting to provide some transparency with regard to the money and activities of unions.

Bill C-377, however, does not deal with the more controversial issue of the use of compulsory union dues for non-work issues. All it does is to make union finances public.

CONCLUSION

REAL Women of Canada supports Bill C-377 because we believe it is a step in the right direction in regard to reining in the uncontrolled power of unions.

We would, however, urge the government to bring in further legislation, similar to that proposed in the Saskatchewan consultation paper, to both stop the payment of compulsory union dues and to disallow their use for non-work issues.