

July 2015

TO ALL CUPE LOCALS AND STAFF

Dear Sisters and Brothers:

You may know that Bill C-377 passed into legislation on June 30, 2015, one of the last bills passed by this government before the upcoming federal election.

Bill C-377 is the clearest example of the Conservative government's attack on unions. It is a private members' bill that was brought forward with the help of anti-union groups that are Conservative supporters.

The bill changes the *Income Tax Act* to force unions, and no other similar organizations, to disclose all their financial information to employers and the general public. The requirement to disclose every financial transaction over \$5,000 is designed to tie unions up in red tape and weaken our ability to represent our members.

The bill is unnecessary, unfair, imposes expensive and intrusive requirements on businesses and unions, and is untruthful about its real objective: silencing the voices of workers, and limiting the vital role unions play in a democratic society.

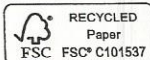
CUPE believes that union members have a right to know how we spend the dues we receive from members. But members of the general public – and our employers – do not. Having information about union finances can give employers an unfair advantage in bargaining. They would know how much money we have in our strike and defence funds for instance or be able to figure out which union members have been receiving strike prep training. Such information is critical to unions' ability to represent members. That's why we have been fighting against Bill C-377 since its inception.

Attached you will find a Canadian Labour Congress (CLC) update on Bill C-377. Our union, and all other CLC affiliate unions have pledged to work together to ensure that we properly challenge Bill C-377.

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PAUL MOIST – National President / Président national CHARLES FLEURY – National Secretary-Treasurer / Secrétaire-trésorier national

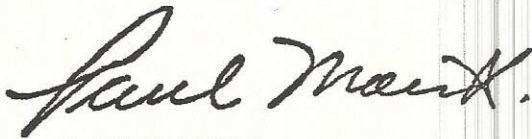
FRED HAHN – DANIEL LÉGERE – LUCIE LEVASSEUR – KELLY MOIST – MARLE ROBERTS – General Vice-Presidents / Vice-présidences générales



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We will keep you posted on all developments on this important subject matter. Please do not hesitate to contact us if you have any questions.

In solidarity,

A handwritten signature in dark ink, appearing to read "Paul Moist". The signature is fluid and cursive, with a large initial "P" and a stylized "M".

PAUL MOIST
National President

A handwritten signature in dark ink, appearing to read "Charles Fleury". The signature is cursive, with a large initial "C" and a stylized "F".

CHARLES FLEURY
National Secretary-Treasurer

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Att.

Bill C-377 – Recent Developments and a Strategic Response

Introduction

Bill C-377 was proclaimed into law on June 30, 2015. This is three and a half years after the original bill was introduced as C-317 in the House of Commons. Following the ruling by the Speaker that the bill was out of order, it was re-introduced as Bill C-377. The Canadian Labour Congress immediately began to work with affiliates and other organizations to develop a strategy to build a broad based group of allies opposed to the legislation. We were very successful in that endeavour.

Opposition to Bill in Parliament

A wide range of organizations, in addition to the CLC and affiliated unions, voiced strong opposition to the bill at the Parliamentary hearings, given the unconstitutionality of the bill and its violation of the basic rights of freedom of association and freedom of speech. These groups included the Canadian Bar Association, the Quebec Bar Association, Chartered Professional Accountants, Canadian Civil Liberties Association, the Federal and Provincial Privacy Commissioners, affiliated unions and other labour organizations, law firms and representatives of property owner associations and consulting firms among others.

In addition, a number of national and international academic experts on constitutional and labour issues spoke out in opposition to the bill.

With the exception of a few groups, such as the Merit Contractors, parroting the government line, there was no independent support for the Bill.

Provincial Government Support

Very importantly, the CLC and some Federations advocated with provincial governments. This resulted in six provincial governments – Quebec, Ontario, Manitoba, Prince Edward Island, Nova Scotia and New Brunswick advising Parliament and later the Senate that, in their view, the bill was unconstitutional, since it would attempt to legislate in the area of labour relations which is provincial jurisdiction. Alberta recently added its opposition to the bill as well, resulting in seven out of ten provinces objecting to the bill as unconstitutional.

Activists in affiliate local unions and labour councils worked very hard to advocate with local Members of Parliament, municipal councils and community groups to build opposition to the bill.

So, by the time the bill passed third reading in Parliament to be sent to the Senate, the general view in the public of the bill was that it was an unconstitutional attack on the rights of workers and their unions and would result in a great deal of red tape in the Canada Revenue Agency.

Strategy Development

This all was part of the strategy developed by the CLC Legal Challenges Coordinating Committee and the Bill C-377 Working Group, both chaired by NUPGE National President, James Clancy. The working group also included representation from the non-affiliated labour centrals in Quebec.

An important part of the strategy as developed by the Committee and Working Group and endorsed by the Canadian Council, was to build alliances with groups that had credibility with the public. This effectively negated the government strategy of making the issue one of transparency of unions and the "rights of workers." It was critical to the success of the strategy that labour spokespeople were on message and supported the arguments of other groups. According to information we received from inside the government, this was a strategy they could not figure a way around. They were counting on loud demonstrations, lots of speeches and denouncements of the government so that they could focus their responses there.

Our strategy worked and is continuing to work, with recent articles on the unconstitutionality of the bill appearing in the media.

Senate Actions

A similar approach was used once the bill went to the Senate. The result was an overwhelming number of witnesses opposing the bill on constitutional and Charter grounds. Eventually the Senate amended the bill so that it was essentially gutted from what the Government wanted. After the House of Commons resumed in the fall of 2014, the bill was sent back to the Senate.

Again the Government used every dirty legislative trick they could think of to push the bill through. Even the Speaker of the Senate ruled against the trickery, but his ruling was overturned by the passive Senators doing the government's bidding.

Status of Bill C-377, Reporting Requirements

With the proclamation into law of Bill C-377 on June 30, 2015, the reporting and disclosure requirements do not come into effect until a union's first fiscal period following December 31, 2015, and the report is not due until six months after the end of the fiscal period. This means that even if a union's reporting period began January 1, 2016, the actual disclosure would not have to be reported until June 30, 2017, six months after the end of the fiscal period. By that time, we anticipate the bill will be either repealed or overturned by the Supreme Court of Canada.

Federal Election

In the interim there is a federal election, and both the New Democratic Party and the Liberal Party have said they would repeal the bill if in a position to do so after the election.

There are a number of strategic and tactical moves we can make in the run-up to the election which need to be coordinated so that we do not undo all of the work of the past three years.

Coordination of Legal Challenges

The Working Group recommended that we approach the provincial governments to initiate references to their Superior Courts on the issue of constitutionality and Charter violations. This would speed up the process to get to the Supreme Court of Canada and enhance the probability of favourable decisions. It would also permit the CLC to intervene on the issues of the Charter violations, rather than starting at the trial level in provincial courts.

Recent experience at the Supreme Court of Canada tells us that in order to be successful we need to coordinate with a view to ensuring a coherent strategy in terms of where and when a challenge or challenges are brought.

The best option is for the CLC to itself coordinate and initiate challenges in one or more provinces (potentially during the election campaign, if we consider that to be advantageous), so as to be in a position to lead and coordinate the proceedings. This will serve to increase awareness of the issues in each jurisdiction and provide media coverage during the campaign. We are in the process of evaluating when and where it is best, for tactical and strategic reasons, to pursue the matter.

The CLC will be providing information to affiliates with a view to explaining why specific decisions are made at this time, for example, holding off in some areas until after the election, seeking potential evidence for the challenge, and explaining what unions need to do in the meantime.

It will be important to explain to a court the adverse impact of Bill C-377 on freedom of association, freedom of expression, and privacy interests, by having concrete real world illustrations. This includes evidence of specific or unique impacts on different unions/locals, e.g. depending on their size or activities. The CLC will be seeking information from affiliates in these areas.

Conclusion

In the past three years we have undermined the government's credibility and that of the bill itself. We did this with a coordinated, long-term strategy to build allies and stay on message. We need to continue in this disciplined and coordinated manner in order to ensure the bill is defeated.

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