



Canadian Association of University Teachers
Association canadienne des professeures et professeurs d'université

 www.caut.ca
acppu@caut.ca

2705, promenade Queensview Drive
Ottawa (Ontario) K2B 8K2

Tel\Tél. 613-820-2270
Fax\Télé. 613-820-7244

September 21, 2012

MEMORANDUM 12:38

TO: Presidents and Senior Administrative Officers,
Local, Provincial and Federated Associations

FROM: James L. Turk, Executive Director

RE: **Assault on labour rights and post-secondary education**

We are in one of the most difficult periods since the formation of CAUT in 1951. While we have achieved the remarkable distinction of university and college academic staff having the highest rate of unionization of any major employee category in Canada, we see the foundation of our collective strength coming under concerted attack. At the same time, we also see an assault on what we most value about our post-secondary education system.

Labour Rights

The American *Wagner Act* principles that underpin federal and provincial labour law in Canada have made it possible for individuals to act collectively to improve the terms and conditions in which they work. Academic staff have used their labour rights to form strong academic staff associations that have been essential not only to improve the terms and conditions under which we work, but to protect the integrity of our institutions and the quality of education.

In the recent past, we have seen clearly in the United States that labour rights can be more precarious than we ever imagined. Five years ago, few would have thought that states like Wisconsin and Michigan would be shredding labour rights in place for half a century. Ominously, too few in Canada recognize that the same dangers may be in our immediate future.

Inspired by the Tea Party advances in the United States and supported by anti-labour corporate-financed Canadian think tanks like the Fraser Institute, the Manning Centre, and the Institut économique de Montréal, there are a burgeoning number of proposals to “reform” (read “undermine”) labour rights in Canada. Some have been acted upon, as the Wall Government in Saskatchewan’s passage of anti-labour Bills 5 and 6¹; the Harper Government’s intervention in labour relations (CP, Air Canada, Canada Post – in one case legislating terms that were less than the employer had last offered); the BC Government’s anti-strike law forcing teachers back to work – legislation so punitive that had the BCTF struck, the cumulative fines for individuals, locals and the provincial organization would have been greater than what ExxonMobil had to

¹ The two bills were condemned by the International Labour Organization (ILO) and partially invalidated by the Saskatchewan Court of Queen’s Bench. The Wall Government announced in March it is appealing the decision.

pay for the Exxon Valdez oil spill, arguably one of the most devastating human-caused environmental disasters in history.

Ontario has now legislated a wage freeze and eliminated other long-standing contract provisions of K-12 teachers and indicated it will be introducing similar legislation for the broader public sector imminently. A provision in the teachers' bill is that "No term or condition included in an employment contract or collective agreement under or by virtue of this Act...shall be questioned or reviewed in any court."

In the House of Commons, a Conservative private member's bill (C-377) has passed second reading. The purpose of the bill is to require unions and other employee associations to make their finances public -- including assets, liabilities, and expenses. Although unions already provide this information to their members through financial audits, reports, and regular membership meetings, the bill would make financial detail available to employers, and in the process forcing unions and associations at the national, provincial and locals levels to assume very expensive administrative costs asked of no other corporate body, charity or organization.

These are actions that have been taken or are in process. Waiting in the wings are proposals by the Official Opposition in Ontario to turn Ontario into a so-called right-to-work province and gut the powers of the Ontario Labour Relations Board.² The Saskatchewan Government, earlier this year, released a consultation paper on the renewal of labour legislation. While wanting to be seen as asking innocent questions, the real intent snuck through with queries such as, "Are trade unions sufficiently accountable?", "Should union members be able to stipulate what their union dues are used for?" (not a question about a democratic decision but about an individual right); "Is it necessary to restrict the applications for changing union representation or decertification of their union to the 'open period'?"

The Supreme Court of Canada has opened the door to the removal of key provisions of Canadian labour when it upheld the constitutionality of the Ontario law governing rights of agricultural workers. In *Ontario (Attorney General) v. Fraser*, the Court held that the law is consistent with the *Charter* even though it removed the obligation of employers to bargain in good faith and had no provision that obligated an employer to deal exclusively with the union that the majority of workers supported in a secret ballot vote.³

These are some of the initiatives we know about. Part of the purpose of this memo is to ask if your association is aware of other anti-labour initiatives in your province. If so please advise us as we will be discussing at Council a campaign to protect labour rights.

Attack on Post-Secondary Education

At the same time as academic staff associations' (and all others') labour rights are being threatened, the institutions where we work are in danger. As David Robinson has reported to CAUT Council, governments, spurred by the Organization for Economic Cooperation and Development (OECD), have been making fundamental changes, often injurious, to public education.

If there were a contest for which governments have done the most to undermine their own excellent systems of universities and colleges, leading contenders would be the John Howard Government in Australia in the mid-2000s, the current Conservative-Liberal Democrat Coalition in the UK, and a series of governments in California that are successively destroying perhaps the best public educational system in the United States.

² <http://www.randyhilliermpp.com/ontariocanleadagain/images/stories/Hudak-White-Papers-Labour-H.pdf>

³ <http://www.canlii.org/en/ca/scc/doc/2011/2011scc20/2011scc20.html>

It now appears as if the Ontario Government has entered this race, led by its Minister of Training, Colleges and Universities, Glen Murray.

Murray began his one-minister onslaught earlier this year with a discussion paper – “Strengthening Ontario’s Centres of Creativity, Innovation and Knowledge.”⁴ His starting point is that “managing growth in compensation costs will be key to sector sustainability.”⁵

Ideas the Minister is encouraging include:

- Developing “revitalized, labour-market focused three-year degrees”;
- Making “100 per cent of first- and second-year introductory, general education, and core courses fully recognized across institutions;
- Developing benchmarks for the sector to measure growth in outcome-based learning;
- Much greater use of “technology-enabled” learning – (with the suggestion subsequently that perhaps one-third of all students’ courses should be online;
- Explore more opportunities for the development of entrepreneurial education.

With respect to the proposal for standardization of first and second year introductory, general education and core cores, the University of Toronto Faculty Association, in its comment on the Paper, rightly notes:

There seems to be an assumption that introductory courses by subject area can be easily standardized without recognizing that such courses are often developed as part of integrated programs that are institutionally distinct and reflective of the specific strengths of faculty working at those institutions.

UTFA also draws attention to the virtual absence of reference to research as a key component of what universities do and, “to the extent research is upheld as worthy, it is only when translated into direct and – seemingly – commercial applications in terms of technologies and skilled worker training that research matters at all.”

Absent as well is any recognition of the synergy of teaching and research, a fundamental aspect of university education. Also absent is any mention of the importance of academic freedom and autonomy at the level of individual institutions. The Ontario Government’s new direction abandons recognition that universities fulfill their obligations to society through the freedom to determine curriculum and research agendas and to conduct teaching and research activities free of undue influence from third parties, including the government.

While purportedly seeking consultation, the Minister is taking action to implement his agenda. He is cutting \$30-million out of base-budget funding for all institutions and will be allocating that money as a prize to three institutions that “...demonstrate the greatest ability to serve as lead institutions – models of advanced education in the 21st century.”

To determine which three universities get the money, he has directed all Ontario university presidents to develop over the summer, and submit by September 30, “strategic mandate agreements” (SMAs) that identify their institution’s three priority objectives. The priorities, which inform his consultation document, must (1) promote student mobility with a better credit transfer approach and strong Ontario credentials brand, more use of technology in teaching and “flexible

⁴ <http://www.tcu.gov.on.ca/pepg/publications/DiscussionStrengtheningOntarioPSE.pdf>

⁵ Ibid., p. 9. The fact is that proportion of total university expenditures spent on academic rank salaries has fallen to less than 20% -- down from more than 30% in the late 1970s and early 1980s.

course and degree structures”; (2) meet the needs of the creative economy through achieving the 70% PSE graduate target, ensuring that programming emphasizes workforce knowledge and competencies as well as liberal arts and sciences, increasing partnerships among PSE institutions, the community, and employers/entrepreneurs; (3) focus on productivity, innovation, and sustainability through differentiation (strengths and areas of excellence), cost management through shared/integrated services, managing enrolment and program growth, improving productivity through teaching, technology, infrastructure, program and degree organization innovations.

In short the Minister is attempting to force presidents to reshape their institutions’ priorities to meet his vision of what universities should be, as laid out in his consultation paper and elaborated in his consultation process. The Minister’s mandatory timeline of doing this over the summer ensures there is not adequate opportunity for proper consultation within each institution nor time for proper involvement of the universities’ collegial governance structures.

In the face of criticism that this is a rushed and ill-conceived process directed to questionable objectives, the Minister responded forcefully at a consultation with heads of institutions and others in June. He said:

“Fear of change is really interesting to me. There is a revolution. This is not about evolution. All of those who think this is about evolution are attached to an institution that is going to be very troubled by the pace of change that surrounds you. Some of our largest and most successful universities of the last century will not be in this century if they don’t get their heads around that and if leaders of those institutions do not understand the accelerated pace of change and that they now lead institutions that do not have walls and that this is a borderless and wall-less world. I hate to break this to you that someone has taken the walls off your institution. Matter of fact they removed the doors and windows and students can learn anywhere, any time in the world.”⁶

Minister Murray then attacked student leaders “who thought they still were in the 1970’s” and “risk-averse” university presidents and faculty association presidents “who think change is pejorative.”

Universities have survived as an institution for more than 800 years precisely because they do change and adapt. The issue is not aversion to change but attempts by the Minister to dictate his vision of change and to ensure that such change will require no new financial resources from his government. In fact, in none of the consultation did the government make any reference to the fact that Ontario now ranks last in Canada in financial support for PSE on a per student basis.

While the \$30-million carve out from base funding to reward the three institutions whose SMAs are chosen may seem a limited inducement, the Minister has a far more powerful stick he is wielding – the current provincial funding formula review which can modify the formula to punish institutions that do not make the changes he wants.

This is the most serious attack on post-secondary education of which we are aware, and most certainly, if this is allowed to happen in Ontario, will become government policy in other provinces. CAUT continues to devote resources to these problems in Ontario through regional meetings and bargaining advice. Our reason for writing you is to raise these concerns to a level of a national alert. All of us need to be monitoring government policy initiatives, informing our members about the scale and seriousness of what is underway, and taking as vigorous action as possible. CAUT will be pleased to assist you and your association to meet this challenge.

⁶ <http://ocufa.on.ca/2012/watch-video-of-the-government-of-ontario-summer-consultations/>