BOOK REVIEW

Dynamic Negotiations:
Teacher Labour Relations in Elementary and Secondary Education

Sara Slinn & Arthur Sweetman, eds.

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This prescient volume of research essays providing cross-jurisdictional comparisons of teacher collective bargaining across the country should be priority reading for the new Premier of Ontario,1 the Elementary Teachers’ Federation of Ontario, and the Ontario Secondary School Teachers’ Federation, who have been engaged in what could be described as the most “dynamic” of all recent teacher collective agreement negotiations in Ontario.

The eleven essays in this volume examine the history of teacher bargaining in each province in publicly funded schools, and provide detailed and informative comparisons of elementary and secondary teacher collective bargaining structures. According to the editors, the book is part of a project aimed at assisting labour relations in Ontario through training and information dissemination. It could not be more timely. Ontario’s self-styled “education premier,” Liberal Dalton McGuinty, left the stage in January of 2013 to the echo of thousands of angry teacher protesters outside the Liberal leadership convention while his successor, a former Minister of Education in his government, hastened to extend an olive branch to teachers in an effort to end their widespread political protests and rotating strikes

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1 Kathleen Wynn was elected as Liberal leader at the party’s leadership convention on January 26, 2013, and was sworn in as Ontario’s 25th premier on February 11, 2013.
as well as their withdrawal from extra-curricular activities. At the root of the protests is Bill 115, which removed the right to strike and imposed collective agreement terms on two unions, poisoning previously amicable relationships and leading to a flurry of litigation. This book aids in contextualizing the current Ontario conflict in the historical patterns in this province and elsewhere in the country, and tracks the origins and dynamics of teacher-government conflict in collective bargaining.

In their introductory chapter, editors Sara Slinn and Arthur Sweetman reflect on the dearth of in-depth analysis of the education sector in Canada, despite the complexity, importance and social impact of teacher bargaining. These essays provide descriptive analyses of the current provincial bargaining regimes and are intended to assist and promote future research. They will likely be key to the development of legislative bargaining structures that lessen the fundamental misalignment or “mismatch” described by various authors between the public funding of various provinces’ K-12 education system and teacher negotiation regimes.

Chapter Two of the book, by Karen Schucher and Sara Slinn, provides a comparative review of bargaining structures across the country, demonstrating in accessible format which provinces have legislated local or provincial bargaining and in which of them there exist two-tier or other types of bargaining structures. A detailed list of the subject matter assigned to local and provincial tables is provided for every province, along with analyses on work stoppage legislation. Bargaining agency is examined in detail, along with legislative restrictions on the scope of bargaining. The material is well organized and helpful. The complexity and dissimilarity of provincial education and labour statutory structures is startling, as revealed by the well-constructed tables of information.

Each subsequent chapter elaborates on the history of the provincial regimes described in the comparative analysis and provides important insight into how they work, and why they often do not. Other overarching themes are explored in the essays — for example,

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2 An Act to implement restraint measures in the education sector, the short title for which is the Putting Students First Act, 2012, SO 2012, c 11 [repealed 23 January 2013].
how fiscal constraints, political agendas, and sometimes downright incompetence have led to prolonged periods of dysfunctional labour relations in the education sector.

Chapter Three, “The Great Divide,” and Chapter Four, “Conflict without Compromise,” illustrate a case in point — British Columbia. In Chapter Three, Thomas Fleming describes 40 years of troubled labour relations in B.C.’s public school sector, casting the blame widely: adversarial governance structures, collapse of school community, disappearance of sociability-lubricating education relationships, a vacuum of power and governmental leadership (and perhaps competence) at the Ministry of Education, and the British Columbia Teachers’ Federation’s “raging ambitions” to shape the province’s social agenda.3 This is an entertaining read, but profoundly dispiriting for those familiar with teacher labour relations, especially in light of Ontario’s recent trajectory. In Chapter Four, Sara Slinn tackles an even longer historical period, with added analysis of B.C. bargaining structures and political dimensions. She casts a keen analytical eye on the longstanding structural impediments to successful bargaining, as well as on the parties’ destructive habit of bringing ancient grudges to the table. She offers a sliver of hope and some suggestions in her thoughtful concluding comments.

Ontario is addressed in three chapters, which explore from unique perspectives the increasing gaps between the formal statutory structures for teacher bargaining, and the current ad hoc system of more centralized bargaining. The profound changes brought about from 1997 to 2001 under the regime of the Mike Harris Conservatives are examined in the first two of these essays. Joseph Rose’s paper, “The Evolution of Teacher Bargaining in Ontario,” takes a long look at the themes defining teacher bargaining under various political regimes. He highlights the power struggle over education policy that has remained constant in the historical context of pre-collective bargaining and subsequent collective bargaining by teachers in the province. In her essay, “Collective Bargaining for Teachers in Ontario: Central Power, Local Responsibility,” Elizabeth Shilton examines the approaches to teacher bargaining in the years 1997-2011 under two successive political regimes, and tracks the growing mismatch

3 Chapter Three, p. 52.
between formal structure and functional structure. She can lay claim to the best prediction in the book: the *ad hoc* nature of the current bargaining structure is likely “temporary, unenforceable and inherently unstable,” especially in periods of fiscal restraint. Shilton further predicts the imposition on the sector of a formalized, multi-tiered legislative bargaining structure.

Perhaps the research and analysis in this book will lay the foundation for the negotiation or imposition of a teacher bargaining structure in Ontario more closely aligned with the practical reality of provincial bargaining agency held by teacher bargaining agents under the *Education Act*\(^4\) and a paymaster with increasingly limited funds, declining enrolment, and recent investments in expanded educational services such as full-day kindergarten.

In Chapter Nine, Brendan Sweeney, Susan McWilliams and Robert Hickey take a different approach to the most recent rounds of negotiation under the increasingly centralized regime in Ontario, employing data from interviews with stakeholders engaged in the process in 2005 and 2008 to identify its benefits and problems, including the impact of removing key decision-making from local players.

In contrast to B.C. and now Ontario, Newfoundland and Labrador are described by Travor Brown in Chapter Eleven as noteworthy examples of 40 years of stability in teacher bargaining without direct government intervention, attributable to numerous elements he explores in his essay. Brown selects and discusses five elements that he considers “best practices” for other jurisdictions to consider, including a high level of centralization, clarity in governing legislation, and good dispute resolution mechanisms.

Stability now appears to have been regained in Manitoba in the education sector, but for different reasons, and only after a prolonged assault on teachers in the 1990s by the Conservative government of the day and years of rebuilding by subsequent governments, as outlined by Valerie Lemieux in Chapter Six of the book.

Alberta and Quebec display unique characteristics, and their teacher bargaining history is complex and interesting, in each case reflecting a record of government efforts at social engineering of publicly funded schools. Alberta has its charter schools, and weak

\(^4\) *Education Act*, RSO 1990, c E.2.
unions, described in “Oil and Ideology” by Kelly Williams-Whitt, while Quebec has stronger unions, but surprisingly, a large quasi-private school sector funded in part by public funds through a de facto voucher system. Jean-Noël Grenier and Mustapha Bettache describe the evolution of the current system in Quebec, beginning with the Quiet Revolution and the loss of religious control over schools, and ending with a complex three-tiered system for teacher bargaining: provincial cross-sector, provincial education sector, and local or regional school board.

Through these well-written descriptive and historical essays emerges a portrait of an epic tug of war between teachers and their governments in each province. When times are good and ideologies coincide, teachers make real progress in wages and working conditions, and labour peace reigns. Often, however, subsequent government intervention attempts to rein in education spending and limit teacher impact on education policy through re-engineering of teacher bargaining structures.

Along with, or perhaps because of that swinging pendulum, seemingly intractable stalemates have emerged in B.C. and Ontario, where deficit financing, clashes of ideology, and intrusive government legislation imposing limits on bargaining are central features. Increasingly, when solutions are not obvious, governments turn to legislated centralized control with limited local input over working terms and conditions, and teachers exercise various collective bargaining sanctions and turn to the courts. In the current context of “dynamic” Ontario bargaining, the government has won the first round: a decisive victory in the freshly released Ontario Labour Relations Board decision by Chair Bernard Fishbein. The decision found that a withdrawal of extra-curricular activities by elementary teachers, despite the characterization of those activities as “voluntary” in collective agreements, violated the broadly drafted strike provisions of the province’s Education Act. Round Two? A Charter challenge to Bill 115, brought by the Elementary Teachers’ Federation of Ontario, has yet to be heard.

5 Trillium Lakelands District School Board v Elementary Teachers’ Federation of Ontario (11 April 2013), 3042-12-U. See para 103 for the Board’s comments on the paper by Elizabeth Shilton which appears in this book.