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Book Review

DYNAMIC NEGOTIATIONS: TEACHER LABOUR RELATIONS IN CANADIAN ELEMENTARY AND SECONDARY EDUCATION, by Sara Slinn and Arthur Sweetman (eds)¹

ANDY HANSON²

SARA SLINN AND ARTHUR SWEETMAN have brought together a number of perspectives in this overview of teachers' unions and their labour negotiations. Specifically, the collection examines the relationship between teachers' unions and the state. While much has been written in the news media about teachers' unions during times of labour strife,³ little academic work has engaged with the broader issue of teachers as public sector workers. *Dynamic Negotiations* surveys the collective bargaining history and the current labour regimes of teachers in six of the thirteen provinces and territories. Only a few writers have examined collective bargaining regimes in individual provinces.⁴ This collection, while not scrutinizing every jurisdiction, explores the variety of practices and legislation under which Canada's teachers negotiate their salaries and working conditions in exchange for their labour of schooling the nation's children. Significant variation has emerged among provincial legislative constraints in response to the dialectic between the state, teachers, and local boards of education.

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1. (Montreal and Kingston: McGill-Queen's University Press, 2012) 317 pages.
 2. PhD.
 3. For example, *The Globe and Mail* ran a front-page story on the two-week province-wide Ontario teachers' strike in 1997 every day that the teachers were out. Leading up to the strike the *Toronto Sun* ran 78 stories referencing the teachers' unions between 1 January and 18 October.
 4. See e.g. Bryan M Downie, *Collective Bargaining and Conflict Resolution in Education: The Evolution of Public Policy in Ontario* (Kingston, ON: Queen's University Press, 1978); Stephen B Lawton et al, *Teachers' Unions in Canada* (Calgary: Detselig Enterprises, 1999); Yonatan Reshef & Sandra Rastin, *Unions in the Time of Revolutions: Government Restructuring in Alberta and Ontario* (Toronto: University of Toronto Press, 2003).

The introduction provides a brief overview of the chapters and their key themes, including organizational and institutional structures, centralization, dispute resolution mechanisms, and ideological differences between teachers and their employers.⁵ Slinn and Sweetman provide a descriptive analysis of the complexity of labour relations in Canadian education. Unfortunately, neo-liberalism and state retrenchment policies—the cause of much of the strife in the education sector since the 1980s—fail to receive mention.

Karen Schucher and Sara Slinn’s “Crosscurrents: Comparative Review of Elementary and Secondary Teacher Collective Bargaining Structures in Canada”⁶ comprehensively compares teachers’ labour regimes from a number of perspectives: legislation, location of bargaining (local, provincial, or two-tiered), bargaining agents, the scope of bargaining, and dispute resolution mechanisms. This chapter provides much of the context for the chapters that follow. The information that Schucher and Slinn have compiled is essential to understanding teachers’ unions in this country and, thus far, is not available elsewhere.⁷

Thomas Fleming’s chapter, “The Great Divide: School Politics and Labour Relations in British Columbia before and after 1972,”⁸ continues his public feud with the British Columbia Teachers’ Federation (BCTF).⁹ Fleming maintains that the tactics of the teachers’ union are the origin of all that is wrong with education in the province. His chapter relies on rhetoric and ideology to make its points, making it a weak and disturbingly vitriolic beginning to the analysis of individual provinces. In the first paragraph, Fleming blames “the raging ambitions” of the BCTF for “the collapse of the school community,” “the disappearance of the sociability that historically lubricated education relationships,” and “the end of the government’s imperial age in schools.”¹⁰ Fleming does not acknowledge any irony in this final criticism. His historical survey of the BC school system romanticizes a time when teachers (predominantly young women) with minimal education taught multiple grades for meagre wages, and ignores the economic realities that brought about the formation of teachers’ unions.¹¹ His affection for

5. *Supra* note 1 at 10-11.

6. *Ibid* at 13.

7. The Canadian Teachers’ Federation (CTF) compiles similar information, available only to its affiliated unions.

8. *Supra* note 1 at 51.

9. Janet Steffenhagen, “Multiple Parties to Blame for 40 Years of School Wars, Author of New Book Says,” *Vancouver Sun*, 14 November 2011, A8; Jon Ferry, “B.C.’s Education System Needs a Total Change in Attitude,” *Province*, 19 October 2012, A6.

10. *Supra* note 1 at 51.

11. *Ibid* at 59.

“long-standing traditions that vested authority in the civil service and district superintendents” conceals the employee-employer relationship between teachers and the state that is at the heart of the BCTF demands that he criticizes so vehemently.¹² Fleming also does not acknowledge the economic and legislative power vested in the state, and prefers instead to engage in union baiting.¹³ He ultimately dismisses the BCTF’s resistance to retrenchment policies as conspiracy theory.¹⁴ This chapter does little to contribute to the book’s argument that the initial step in improving labour relations is to understand their complexity and diversity.

The following chapter, by Sara Slinn, is entitled “Conflict without Compromise: The Case of Public Sector Teacher Bargaining in British Columbia.”¹⁵ It is a welcome shift. Slinn applies the same rigour she and Sweetman demonstrated in chapter 1 to the history of teachers’ collective bargaining in British Columbia, and brings the book back to solid research. The BCTF is arguably the most militant teachers’ union in Canada. It has been threatened repeatedly by a provincial government that has led the country in legislated interventions against teachers and their collective bargaining process. Slinn singles out the lasting effect of policies initiated during the Social Credit governments of Bill Bennett and Bill Vander Zalm between 1975 and 1991. In conjunction with the intransigence of the British Columbia Public School Employers’ Association (the bargaining agent for the boards of education), state attacks on the BCTF radicalized teachers and culminated in the union’s recent demand for access to collective bargaining rights through the *Canadian Charter of Rights and Freedoms*.¹⁶ Slinn downplays the significance of this battle, which has attempted to entrench labour rights within the framework of human rights.

Kelly Williams-Whitt’s chapter, “Oil and Ideology: The Transformation of K-12 Bargaining in Alberta,”¹⁷ approaches collective bargaining as a conflict resolution mechanism. Williams-Whitt is sympathetic to the conditions of employment that teachers have historically endured, and understands the effect of legislated solutions. While the success of the Alberta Teachers’ Association in achieving the richest salaries in Canada can be partially accounted for by the

12. *Ibid* at 58.

13. *Supra* note 1 at 64.

14. *Ibid* at 74.

15. *Ibid* at 81.

16. *Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), c 11. For the demand of the BCTF, see *British Columbia Teachers’ Federation v British Columbia*, 2011 BCSC 469, 20 BCLR (5th) 123.

17. *Supra* note 1 at 125.

oil wealth of the province, Williams-Whitt details how teachers have mobilized against reluctant governments at critical moments. She views the recent surge in teachers' discontent in Alberta as a product of inequities in the education sector's share of oil revenues and unpredictability in the labour regime as the state experiments with forms of two-tiered bargaining.

Manitoba is one of two provinces (the other is Prince Edward Island) where teachers do not have the legal right to strike. However, as Valerie J. Matthews Lemieux suggests in "Teacher Collective Bargaining in Manitoba,"¹⁸ following recent decisions by the Supreme Court, teachers may seek to regain the collective bargaining rights they lost in 1956. At present, the legislation that sets the form and breadth of interest arbitration is the only dispute mechanism available to teachers and has become a key battleground. Matthews Lemieux gives a historical overview of the acrimonious relationship between the Manitoba Teachers' Society (MTS) and the Manitoba Association of School Trustees (MAST), much of which involved MAST seeking legislative changes to strengthen its position. The assault on teachers' bargaining rights received significant momentum in the 1990s under Gary Filmon's Conservative government, which passed legislation that forced unions to disclose financial information, introduced management rights clauses, considered merit pay, challenged tenure, and placed limits on arbitrators. The return of an NDP government under Gary Doer resulted in the removal of the most egregious legislation against teachers, but negotiations were complicated by his government's amalgamation of school boards and by weak procedures for organizing occasional teachers. Matthews Lemieux suggests that the improvements in working conditions negotiated during twenty years of neo-liberalism are the result of Manitoba's teachers learning to use the arbitration system as a mechanism for negotiations outside of legislation.

The next three chapters focus on teachers' collective bargaining in Ontario and compare the dispute resolution mechanisms that were historically in place for teachers with those instituted in 1998, when teachers came under the purview of the *Labour Relations Act*. Because the impact of schools closing for even a few days has political consequences, governments have established additional mechanisms to restrict workplace sanctions in education. Joseph B. Rose gives a broad overview of the bargaining history of the education sector in "The Evolution of Teacher Bargaining in Ontario."¹⁹ In "Collective Bargaining for Teachers in Ontario: Central Power, Local Responsibility,"²⁰ Elizabeth Shilton narrows her

18. *Ibid* at 161.

19. *Ibid* at 199.

20. *Ibid* at 221.

analysis to the 1998 legislation that placed teachers under the *Ontario Labour Relations Act*. The third chapter in this section, “The Centralization of Collective Bargaining in Ontario’s Public Education Sector and the Need to Balance Stakeholder’s Interests,”²¹ by Brendan Sweeney, Susan McWilliams, and Robert Hickey, examines the trend towards provincial bargaining.

Rose divides the collective bargaining history of Ontario’s teachers into four stages. The pre-1975 “association-consultation” stage was an informal paternalistic process without legal dispute resolution mechanisms. The state, through the trustees of boards of education, controlled all aspects of teachers’ work lives and much of their personal lives. The period between 1975 and 1998 was marked by the passage of Bill 100, the *School Boards and Teachers Collective Negotiations Act*, which introduced a labour regime exclusive to teachers. The third stage is the well-documented assault on education and teachers by the Mike Harris Progressive Conservative government. The centerpiece legislation of that period, Bill 160, the *Education Quality Improvement Act*, placed teachers under the *Ontario Labour Relations Act* and centralized control of education funding. Bill 160 set the conditions for the fourth stage, the emergence of two-tiered bargaining under the McGuinty Liberal government.

Rose bases his analysis on statistical data from the Ontario Ministry of Labour.²² His evaluation of the efficacy of Bill 100 is particularly revealing when compared with the effects of Bill 160. Rose is highly critical of the Harris government’s focus on retrenchment, which resulted in turbulence in the school system and political unrest. Although he is somewhat more hopeful about two-tiered bargaining, he warns of the pitfalls of imposed collective agreements.

Shilton begins her chapter on the impact of the Harris government’s Bill 160 by pointing out that the reforms instituted by the Harris Conservative government did not immediately change negotiating practices in education. One of the features of neo-liberal ideology in the Harris reforms of the late 1990s was an attendant distrust of the institutions of democracy. This distrust drove the centralization of power.²³ Shilton rightly identifies the battle between the teachers and the state as a struggle over the state’s efforts to centralize control of education and undermine teachers’ ability to influence their work lives through established practices of local collective bargaining. Bill 160 removed the power

21. *Ibid* at 247.

22. “Collective Bargaining Information Services,” *Ontario Ministry of Labour*, online: <<http://www.labour.gov.on.ca/english/lr/cbis.php>>.

23. David Harvey, *A Brief History of Neoliberalism* (Oxford: Oxford University Press, 2007) at 68, 205.

of local trustees to fund education and placed the financial levers solely in the hands of the province. Shilton gives an in-depth examination of the comparative effect on teachers' collective bargaining of moving legislative authority from the *School Boards and Teachers Collective Negotiations Act* to the *Ontario Labour Relations Act*. She does not ignore the plight of occasional teachers who remain the precarious workers in education. Her appraisal of the situation for occasional teachers reveals an astute appreciation of conflicting interests within labour union structures during a period of austerity politics. Shilton's interpretation of the Harris-era changes through the lens of teachers' collective bargaining provides an overview of the effects of neo-liberalism on public policy and public institutions. She concludes that the lack of clearly defined and formalized responsibilities in the current system is too unstable to support meaningful negotiations, and that a legislated solution is needed that includes some form of two-tiered bargaining.

Sweeney, McWilliams, and Hickey pick up where Shilton leaves off. They examine the competing interests of state, board trustees, teachers' unions, and other workers who make up the education sector as an example of public sector collective bargaining that engages with austerity policies in a neo-liberal state. The authors' prediction that the use of state coercion to achieve labour agreements would lead to future disruptions in the schools and drive a wedge between teachers and the Liberal government has proven prescient. These writers are particularly concerned with the repositioning of labour negotiations from the local to a centralized bargaining regime. They question the legitimacy of the current regime, which lacks clear lines of authority and responsibility.

Jean-Noël Grenier and Mustapha Bettache's chapter, "Labour Relations in the Quebec K-11 Education Sector: Labour Regulation under Centralization,"²⁴ tracks the development of Quebec's two-tiered labour regime. The province can lay claim to the most complex labour relations in the education sector in Canada, a condition that arose out of its unique labour struggles leading to broad alliances within the public sector unions. As a result, teachers negotiate alongside nurses and other public sector workers under the Centrale des syndicats du Québec (CSQ) (the umbrella organization) for monetary items, while non-monetary items such as scheduling are decided through local negotiations. Grenier and Bettache remark on the susceptibility of a highly centralized system to state coercion, which in this example has resulted in Quebec teachers having very low wages—although they have achieved some of the best working conditions in the country. Recent responses to austerity measures in Quebec reflect the writers' view that the separation of the more radical Fédération autonome de

24. *Supra* note 1 at 265.

l'enseignement (FEA) from the CSQ indicates a more politicized position developing among teachers.

The book finishes with "K-12 Teacher Collective Bargaining in Newfoundland and Labrador,"²⁵ Trevor Brown's application of an industrial relations system model to teachers' negotiations. The weakness of his methodology is that it assumes that all parties have equal power in an impartial system. Until 1998, Newfoundland schools operated as a denominational system managed by churches. That changed with the recent development of offshore oil reserves. Before that, the province had long been one of the poorest in the country, with a small, dispersed population dependent on natural resource extraction. The state's resettlement of the outpost population and consolidation of institutions resulted in a highly centralized labour regime imposed on a fragmented education sector. The regime was weighted in favour of the state due to the treasury board being a party to negotiations. Brown warns that any move towards legislated collective agreements, similar to those forced on other workers in the public sector, may force teachers into political activism and workplace sanctions. His conclusion that the absence of both strike action and back-to-work legislation indicates that the system has served both sides well is, however, questionable; rather, the dampening of labour activism in education appears to be the effect of a regime that elevates the coercive power of the state.

For students of labour in Canada, this book makes an important contribution. Union strength in the education sector developed at the same time as industrial unions were declining in this country. The effect was to propel teacher militancy to the forefront of class struggle. Teachers' organized activity has only recently become a subject of study that speaks to more than regional interests. This collection goes some distance in remedying that lacuna in education and labour literature.

25. *Ibid* at 291.

