

The Liberals cut off debate, but there is another way to get EI reform on the agenda

Politics and pogey

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In 1940, the Canadian provinces, battered by a decade of Depression, agreed to a constitutional amendment transferring unemployment insurance to federal jurisdiction. That solution to the problems of their day has given rise to a new generation of problems crying out for solutions in our own day.

For 60 years, federal politicians have played politics with pogey to the extent that the program scarcely resembles unemployment insurance, or even employment insurance (EI), as the Liberals have renamed it. In 1999, Canadian workers and employers paid almost \$19-billion in EI contributions. Of that amount, only about \$7-billion, or 37% of the total, was spent on regular benefits to unemployed workers. Where did the rest of the money go?

The largest single fraction — \$7.2-billion, about 38% of the whole — simply went into federal general revenue. Politicians speak metaphorically of the EI fund, but there is no fund set aside for a day when a new recession might raise unemployment rates. The ugly truth is that EI now serves mainly as a regressive, job-killing payroll tax to raise money for the federal government.

The remaining 25% of the total, more than \$4-billion, is spent on a variety of programs that may be worthy or unworthy, depending on your point of view, but are not unemployment insurance. They include maternity and parental benefits, income support for fishermen, job training and creation, and wage subsidies.

At one level, this is a classic case of bureaucratic goal displacement, but it is also a front for a politically inspired system of regional transfers. Our own province of Alberta is a big loser — \$360 per capita, more than \$1-billion collectively in 1999; but Ontario was an even bigger loser that year — \$411 per capita, more than \$4-billion in the aggregate. The only “winners” were the four provinces of Atlantic Canada, especially Newfoundland (\$927 per capita).

“Winning” this game, however, is a dubious prize because dependency on unemployment benefits has so many perverse effects on the provincial economy. As the Fraser Institute’s Fred McMahon pointed out in a recent *National Post* column, in this context it really is better to give than to receive. But in fact, everyone loses, except the politicians who use pogey to buy votes.

A Liberal government will never make fundamental reforms to this corrupt system. For too many years, paying people not to work has been the Liberals’ signature policy. It is so woven into their long-term political strategy for maintaining a majority in the House of Commons that they cannot give it up. After making some small improvements in the mid-1990s, the Liberals renounced them as soon as it became clear that even those modest reforms were costing them support in Atlantic Canada. In a parody of statesmanship, the Liberals are now using closure in the House of Commons to reverse their own amendments.

Is the situation hopeless? Not necessarily. There is another way to get EI reform on to the agenda. Section 91.2A of the Constitution Act, 1867, gives Parliament jurisdiction over unemployment insurance, but unemployment insurance is only a secondary element of what now exists. Most of what is called EI is actually a revenue-raising payroll tax plus a motley array of other programs. Under the rule of law, Parliament is supposed to act within its constitutional authority. Payroll taxes, regional transfers, maternity benefits, and wage subsidies do not constitute unemployment insurance just because federal politicians decide to call them by that name.

The vulnerable point in the armour of the federal scheme is the constitutional principle that one level of government cannot tax another. All provinces (and municipalities, which are creatures of the provinces) make large employer contributions to the EI scheme. But if the present EI system no longer constitutes unemployment insurance in the sense of section 91.2A, these payments should be seen not as contributions but as payroll taxes levied by the federal government upon provincial employers.

One or more provinces could withhold their employer contributions, put the money in escrow, and dare the feds go to court to try to collect it. Then the Liberal government could not triumph by imposing clo-

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sure; it would have to present reasoned arguments to persuade a court that EI as it exists really is unemployment insurance. A province following this strategy would have a decent chance of winning, and even a loss would furnish a relatively low-cost way of informing the public about how distorted EI has become.

The time is propitious because only the four Atlantic provinces, representing less than 10% of the Canadian population, now get more out of EI than they pay in. Quebec used to be a net recipient, but Ottawa’s rapacious insistence on taking so much for itself has made even Quebec a net loser (\$102 per capita in 1999). How about a common front of Ralph Klein, Mike Harris, and Bernard Landry?

The next time the premiers get together, by all means let them play the obligatory round of golf; but let them also discuss how they can make creative use of the courts to start getting politics out of pogey.

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