

Ontario Health Coalition

Backgrounder: Canadian Constitution Foundation Challenge Against Single-Tier Medicare
May 2007

According to a press conference held this month, the Canadian Constitution Foundation (CCF) is funding a Charter challenge to single tier Public Medicare in Ontario. This group also launched a class action against single tier in Alberta last year. The goal appears to be to extend the Chaoulli decision outside of Quebec –to bring down the ban on two-tiering and to widen the opening for two-tier Medicare, extra-billing, user charges and out-of-pocket payment for medical care.

The Ontario lawsuit, conducted in the name of Lindsay McCreith, challenges the province's Health Insurance Act, the Commitment to the Future of Medicare Act, and the Healthcare Accessibility Act, and seeks to have the court order the province to allow extra billing by doctors and companies for essential services. McCreith allegedly was diagnosed with a possible brain tumor but was told he would have to wait 4 ½ months before an MRI could be conducted to confirm the diagnosis. Instead of waiting, he went to Buffalo where allegedly an MRI confirmed that the tumor was malignant.

The CCF has begun an extremely disingenuous streetcar advertising campaign in Toronto which blames a 'healthcare monopoly' – ie. the public health system -- for almost killing a patient, despite evidence that wait times, or rationing based on urgency and supply, are not just products of public systems – but occur in either public and private systems. Ignored by the pro-privatizers, is the fact that there is no measurement of waits when there is no health *system* – when health care is treated as a private market for those who can afford it. In the U.S. 45 million citizens are uninsured and unable to afford to even stand in the queue, and millions of others are trumped for a place in the queue by wealth.



An example of CCF's advertising campaign on public transit

Who is Behind the Pro-Privatization Campaign?

The Calgary-based CCF is an extremely right-wing legal advocacy organization (and registered charity) that uses Charter challenges and public campaigns to promote its vision of "constitutional freedom" - specifically individual and economic "freedom", property rights and the restriction of government - and to defend the Constitution against "improper decisions or actions of governments, regulators, tribunals or special interest groups." The CCF is radically ideological and strongly linked with other right wing causes and organizations, most notably the Fraser Institute.

The CCF was founded in 2002 by lawyer John Weston of Vancouver to fund James Robinson's legal challenge to the Nisga'a Treaty (an aboriginal land claim in B.C.). Weston left the CCF and the Robinson case in 2005 in order to focus on his political ambitions as a federal Conservative candidate in West Vancouver (he was narrowly defeated in 2006 despite the support of Dr. Michael Walker, former Executive Director of the Fraser Institute). The CCF hired John Carpay, a former Reform candidate and the Alberta director of the Canadian Taxpayer Federation, to be the CCF's new Executive Director. The organization relocated to Calgary and re-launched itself in the summer of 2005.

Philosophy

While many conservatives loathe the Charter of Rights - viewing it as having allowed left-wing judicial activism - the CCF's strategy is to 'expropriate' the Charter and use it to promote their right-wing 'liberty and property' conservative agenda. Speaking about the Charter, Weston told the Calgary Herald in 2005 "it's here, there's not much point in wishing it weren't. Now we need to make it mean what it's supposed to mean. Conservatives must reclaim it for conservative values." The CCF appears to emulate other right-wing legal lobbies in the US such as the Institute for Justice.

Types of Cases the CCF Takes Up

Aside from its continuing legal challenge to a long-awaited aboriginal land claims treaty (which has been described in the Vancouver Sun as "a stalking horse for ultra-conservative ideologues with little support or credibility") the CCF has also supported a successful challenge against a New Brunswick user charge on liquor sales in bars and is currently funding a class action legal challenges to Medicare in Alberta and an individual action in Ontario. The CCF also hailed the scrapping of the Court Challenges Program that funded court challenges by disadvantaged groups.

Who's Who

Executive Director Carpay was born in Holland and raised in Williams Lake, BC. He received his undergraduate degree at Laval and ran as a Reform Party candidate in 1993 in an attempt to unseat Svend Robinson (during the campaign he argued that " U.I. is a general social program for ski bums"). He moved to Alberta to study law at the University of Calgary and remained involved with the Reform Party and, at the 1996 convention, argued in favour of provincial Reform Parties saying, "These [provincial] Tories are not our friends. As much as I like a lot of the day-to-day policies of the Klein and Harris governments, they are not ours." He also supported a resolution in favour of the "traditional" definition of the family saying, "I did not join the Reform Party to bow down at the altar of political correctness."

In 2000, Carpay supported Stockwell Day against Preston Manning for the leadership of the new Canadian Alliance. He has been Alberta director of the Canadian Taxpayer Foundation from 2001 to 2005. He has a picture of Margaret Thatcher on his office wall and bemoans the fact that "Canada has never been blessed with the equivalent of Margaret Thatcher... Thatcher managed to combine principles and power." In a Globe & Mail op-ed in 2006, Carpay described departing Premier Ralph Klein as "a liberal elitist" and "his actual policies should make a leftist happy".

In the Alberta Canadian Taxpayer Federation, Carpay displayed a talent for publicity and theatrics such as using a chainsaw to cut a giant income tax return in half on the steps of the Alberta legislature to promote a campaign to eliminate Alberta's income tax by 2015 and planting 82 pig ornaments on the front lawn of the provincial legislature to protest a pay raise for the the province's MLAs. He also argued for a user-pay health system comparing it to a user-pay transit system saying, "It's more fair that somebody who is using a service pays for it than somebody who is not using the service,"

The CCF's board of directors and advisory board are both made up of ideologues and financiers of the far right.

- Chairman Claus Jenson of BC is the owner of Overland Freight Lines Ltd and made a presentation to a legislative committee in 2002 in which he said "I am a big fan of the free enterprise system... in my view, big is bad – big business, big government and big unions," and argued for curtailing public sector wages, deregulation and for a policy that would "discourage people from turning to government to solve their individual problems and demands for more handout requests...".

- Ehor Boyanowsky is a Simon Fraser University professor who, in 2001, made a deputation to a legislative committee calling for a referendum on the Nisga'a treaty.
- Dr. Will Johnston is a founding member of "The Conservative Council" and is president of the anti-abortion group Physicians for Life
- Mark Mitchell is vice-chairman of the Fraser Institute's board of trustees
- Chris Schafer is a conservative lawyer and writer and co-authored a Fraser Institute study on welfare reform.
- Advisory Committee member Avril Allen is also the CCF's Ontario Counsel and is the lawyer in the Ontario Chaoulli challenge. She was a summer intern at the Fraser Institute and also contact person for the "Laissez-Faire Club of Toronto".
- Ezra Levant, publisher of the right wing Western Standard and a long time Reform Party and "Stockaholic" is also on the Advisory Committee
- Until recently another board member was Marni Soupcoff of the National Post's editorial board; herself a lawyer and former staff attorney at the Institute for Justice, a Washington "libertarian public interest law firm."

Funding and Charitable Status

In 2006 the CCF took in \$324,652 in tax-subsidized donations. According to the Star "Thanks to the Canadian Constitution Foundation's charitable status, anyone who supports its particular political causes gets a tax writeoff that, in effect, all other taxpayers – including those who disagree with its aims – have to cover."

The CCF received donations of \$1000 or more from:

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