Trojan Horse:

Benjamin Zycher, Right-to-Work Laws, and the Ontario PC Platform

Unifor Research Department

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Introduction: Sweeping "Right-to-Work" Under the Carpet

Just weeks before the provincial election was called, Ontario PC Leader Tim Hudak shelved (for the time being, anyway) his party's highly controversial proposal to ban union dues check-off arrangements (like the Rand Formula) from Ontario labour relations. This policy would have mimicked so-called "right to work" laws implemented in several U.S. states (largely in the U.S. south). These laws make it illegal for companies and unions to negotiate dues check-off and other union security measures. They have suppressed union membership (by permitting free riders and hence crippling the economic viability of unions), driven down wages, and weakened health and safety outcomes. In the face of widespread public opposition to the import of this U.S. law to Ontario, it was dropped from the party's platform for this election. However, neither Mr. Hudak nor other key PC spokespersons (such as Randy Hillier, the party's labour critic when the policy was unveiled) have yet to indicate they don't actually support the concept.

Despite the effort to extinguish public concern over this anti-Rand policy, there are still clear and worrisome indications that the Progressive Conservative leadership and policy team are still committed to abolishing the Rand Formula. Of course, there are several other strongly anti-union elements in the PC platform, including a U.S.-style "paycheque protection" policy that would allow individual union members to withhold their dues if they disagree with how their union is spending money (including on education, lobbying, and advocacy initiatives). That policy has been closely identified with right-to-work initiatives in U.S. states, since it opens the door to individual opting-out of union dues even where the union is a certified bargaining agent (and hence required to represent all workers in the bargaining unit).

There is another link between the right-to-work movement and the Ontario PC platform. The PCs hired a well-known right-to-work advocate from the U.S., Benjamin Zycher, to conduct an economic simulation of several elements of their "million jobs" plan.[1] In addition to many writings advocating the spread of right-to-work laws in the U.S., Mr. Zycher has also written for the ultra-conservative Fraser Institute about the purported benefits of prohibiting dues check-off in B.C. and Ontario.[2] He even recently criticized Mr. Hudak's decision to drop the idea of banning the Rand Formula from his party's platform for the current election.[3] Curiously, despite publicly criticizing the leader of the party, Zycher was hired by the PCs to generate estimates of

[1] Benjamin Zycher, "Economic Growth and Employment Effects of Public Policy Reforms in Ontario," March 2014 (2014a), 18 pp.
[2] Benjamin Zycher, Jason Clemens, and Neils Veldhuis, *The Implications of US Worker Choice Laws for British Columbia and Ontario* (Vancouver: Fraser Institute, 2013). This report was funded in part by the U.S.-based Charles Koch Foundation.
[3] Benjamin Zycher, "Tim Hudak's Bad Choice for Workers," Financial Post, February 25, 2014 (2014b).

the supposed economic gains resulting from several key planks in Mr. Hudak's platform. And without clearly indicating so in his report for the PCs, *Mr. Zycher's analysis is partly based on his core belief that right-to-work laws make an economy more efficient and successful*.

I. What Mr. Zycher Did NOT Measure

Mr. Zycher's analysis for the election purports to estimate the economic benefits for Ontario of four key planks in the PC platform:

- cutting the corporate income tax from 11.5% to 8%;
- eliminating subsidies for renewable energy (and thus reducing the price of electricity);
- joining an interprovincial free trade area with B.C., Alberta, and Saskatchewan;
- reducing provincial regulations, especially taxes and fees for recycling, and restrictions which the Far North Act places on new industrial development in the north.[4]

To estimate predicted GDP and employment gains from the first three of these measures, Mr. Zycher created and estimated a simple econometric model to try to predict the effects of these policies on Ontario's economy. One could ask many questions regarding the specification of that model, the methodology and data used, and the interpretation given to the results. But the methodology is clear, and the results are there for readers to review.

In the case of "reducing regulations," however, Mr. Zycher utilized an entirely different approach.[5] He did not estimate a model linking Ontario GDP and employment to the level of regulation (and in particular to the two specific regulations he criticized in his analysis). In fact, Mr. Zycher indicated that a different approach was appropriate, for rather vague reasons:

> "The proposed reduction in the regulatory burden is likely to have effects that are heavily sectoral in addition to aggregate impacts; moreover, measurement of the regulatory burden is not straightforward. Accordingly, an approach somewhat cruder – but unbiased – is more likely to yield useful findings." (Zycher, 2014a, p.13)

Moreover, Zycher not only admits that direct modeling of the costs and benefits of particular regulations would not be feasible, he goes further to suggest that interprovincial differences in regulatory impacts are likely to be minimal anyway due to the regulatory powers of the federal government. (This begs the question of why they should be a central issue in a provincial election.)

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[4] The paper singles out these two policies as "manifestations" of the supposed over-regulation of Ontario's economy.

[5] Mr. Zycher's methodology was also described and critiqued by David Reevely, "Cut Ontario's regulatory burden and we'll strike oil," Ottawa Citizen, May 22, 2014, http://ottawacitizen.com/news/national/reevely-cut-ontarios-regulatory-burden-and-well-strike-oil-the-tories-economist-says.

> "It is likely to be far more fruitful for purposes of the analysis here to avoid an attempt to measure the benefits and costs of particular regulations; instead, we utilize an examiniation of the aggregate Ontario regulatory framework in comparison with those of other provinces to see if the Ontario ranking is different to a significant degree. After all, it is not plausible that environmental quality and other central objectives of regulatory policy differ radically across the provinces, in particular because the Canadian federal government promulgates important dimensions of regulatory policies." (Zycher, 2014a, p.12)

The fact that his report explicitly did *not* estimate the economic impacts of any particular regulations in Ontario, did not stop him from singling out specific regulations in his discussion (namely, the recycling fees and northern development rules) as the sorts of policies that harm the economy, and imputing that his estimated job gains would prevail should those regulations (and others like them) be eliminated. Nor does it stop the PC party itself from also citing specific policies in plans to eliminate, in the course of describing how the job gains predicted by Mr. Zycher will be attained. Indeed, in their platform document, "A Million Jobs," the PC party cites ten specific examples of "red tape reduction" it would accomplish, including the complete repeal of the Far North Act (going further than Mr. Zycher did) and nine others. But not one of those ten measures was explicitly analyzed in Mr. Zycher's paper. Nevertheless, the PCs' supporting documentation for the platform invokes Mr. Zycher's analysis in claiming that these measures will create a large number of jobs (84,800) over an 8-year period.[6] In its technical supplement, the party commits generically to reducing Ontario regulations by at least one-third in three years, without indicating how overall regulations could be precisely quantified in this manner.

II. What Mr. Zycher DID Measure: Economic "Freedom" in Ontario and U.S. States

So how exactly did Mr. Zycher develop an estimate of the new growth and jobs expected to result from the Ontario PCs' generic promise to reduce provincial regulations? Surprisingly, the methodology followed by Mr. Zycher was very different from the methodology he *claimed* he was following. The job estimate was *not* based on a comparison of regulatory intensity between Ontario and other provinces. It was totally based on a Fraser Institute report which calculates a quantitative measure of "economic freedom" for all 50 U.S. states and 10 Canadian provinces.[7] This Fraser Institute study ranks these sub-national jurisdictions on the basis of several indicators which the authors interpret as reflective of the degree of economic "freedom" enjoyed by individual economic actors (business owners, financial investors, or workers). The scores assigned to each state or province include three components, none of which directly measure regulatory intensity:

[6] See Ontario PC, "Million Jobs Plan: Technical Backgrounder," May 2014.

[7] Dean Stansel and Fred McMahon, *Economic Freedom of North America 2013* (Vancouver: Fraser Institute, 2013).

- The size of government (on the assumption that bigger government reduces economic freedom).
- The level of taxes (on the assumption that more taxes reduce economic freedom).
- Economic freedom in the labour market (on the assumption that stronger labour market institutions, like minimum wages and collective bargaining, reduce economic freedom).

The sub-national freedom scores calculated for each state and province are an equally-weighted average of these three components, each of which in turn is an equally weighted average of three or four sub-components. The connection between this "freedom score" and government regulation is vague and very imprecise. A bigger government might be more active in regulating the economy, but that association is not automatic. The third component of the score does include one direct manifestation of regulatory intrusion: the level of the minimum wage in each state or province (on the assumption that a higher minimum wage means less freedom[8]). The Ontario PC platform does not indicate what a PC government would do about minimum wages (although it's a safe bet that a PC government would aim to reduce the minimum wage in real terms, and perhaps even nominal terms, over time). But none of the other components of the Fraser Institute's "freedom" score measure any direct regulation. Thus it is quite inaccurate (even in the authors' own terms) to interpret the freedom score as a measure of government regulation. Moreover, two of the three major components of that score (the size of government and the level of taxes) are already directly addressed by other key planks in the PC platform. So by trying to attribute new jobs to changes in Ontario's "freedom" score, the party would clearly be double-counting (since they separately count jobs that it argues will be created thanks to tax cuts and government spending cuts).[9]

There is another important problem with the use of the Fraser Institute's sub-national freedom scores in this context: they consider the *combined* impact of measures implemented by *both* the state or provincial *and* municipal levels of government. There is no effort made to disentangle the effects of provincial/state policies from municipal policies. Mr. Zycher acknowledges this, but does not discuss its significance in the context of analyzing provincial regulatory reform proposals. Even if the freedom score could be interpreted as a measure of regulatory intrusion (which it cannot), how could Mr. Hudak's party credibly pledge to reduce these regulations (by "one third") when many of them do not even fall within provincial jurisdiction? Is the implication that a PC provincial government would unilaterally start to alter municipal policies

[8] In this case the entirely one-sided nature of the Fraser Institute's "freedom" analysis is laid bare. While employers might indeed appreciate the "freedom" from being required to pay statutory minimum wages, workers would likely define their freedom in exactly the opposite direction. For a critical analysis of the Fraser Institute's approach to defining and measuring freedom, see Jim Stanford, *Economic Freedom (For the Rest of Us)* (Ottawa: Canadian Centre for Policy Alternatives, 1998).

[9] This practice of double-counting has been highlighted in other aspects of the PC platform; see, for example, Scott Clark and Peter DeVries, "Bad Math: The Ontario Fiscal Platforms, Crunched," i-politics, May 20 2014, http://www.ipolitics.ca/2014/05/20/bad-math-the-ontario-election-fiscal-platforms-crunched/.

and regulations, as part of its determined effort to improve Ontario's ranking on the Fraser Institute index?

Mr. Zycher invokes the Fraser Institute freedom scores in his job-creation estimates in the following odd manner (summarized in Table 1, below). The Fraser Institute report ranks the 60 states and provinces, and then organizes them into 4 quartiles (of 15 jurisdictions each), from highest score (most "freedom") to lowest (least "freedom"). In addition to its freedom score, the Fraser Institute report also lists each jurisdiction's GDP per capita in 2011. Alberta ranks first on the list according to economic freedom (and also boasts the highest GDP per capita – although that may have more to do with oil than with "freedom"). Ontario ranks 54th according to economic freedom, falling in the fourth and final quartile. Zycher then compares (on p.17) the fourth and the third quartiles: linking the difference in their average freedom scores (5.38 and 6.21 respectively, keeping in mind that a higher score means more "freedom") to difference in average per capita GDP ($44,645 versus $46,418, in $US terms).[10] Mr. Zycher does not explain why the third quartile of states and provinces is the relevant benchmark for Ontario. He does not even mention in the text that U.S. states are included in the comparison; he claims only to be comparing Ontario's regulations to other provinces (a reader would have to independently consult the Fraser Institute report to find out that the vast majority of the comparators are in fact U.S. states, not Canadian provinces).[11] In the text he verbally compares Ontario to Alberta. But Alberta does not fall within the third quartile; it in fact ranks first among all 60 jurisdictions. Mr. Zycher does not report Ontario's GDP score ($49,466 US), nor acknowledge that it is significantly higher than the average for the third quartile which he has arbitrarily established as the benchmark for Ontario to meet. More broadly, by linking levels of per capita GDP to only one variable (the Fraser Institute's freedom score), and predicting changes in per capita GDP solely on the basis of changes in economic freedom, the methodology assumes that economic freedom is the *only* relevant determinant of GDP per capita. This is not credible.

III. <u>A Trojan Horse for Right-to-Work</u>

It is through this arbitrary methodology that the role of right-to-work laws sneaks into Mr. Zycher's analysis of Ontario's economic prospects. The third sub-component of the Fraser Institute's sub-national labour market freedom score is an adjusted measure of union density. The third quartile which Mr. Zycher wants Ontario to match, includes a number of right-to-work states (including Mississippi, Arkansas, Idaho, and Michigan – the newest right-to-work

[10] The original Fraser Institute report lists GDP per capita in U.S. dollar terms, and then converts them to U.S. dollars using a mistaken exchange rate. Zycher repeats these erroneous Canadian-dollar conversions. The U.S. dollar in 2011 was worth, on average, 0.9891 Canadian dollars, but the Fraser study multiplied the U.S. dollar GDP figures by that exchange rate instead of dividing. Since the Canadian dollar was worth slightly more, on average, than the U.S. dollar in 2011, Canadian-dollar GDP figures should also be slightly higher.

[11] Mr. Zycher's paper indicated (p.12) that he wanted to compare Ontario's regulatory burden to those of other provinces. The Ontario PC technical backgrounder also suggests that it is comparing Ontario's regulations to "the regulatory levels of leaders in Canada;" it does not mention comparisons to U.S. states.

jurisdiction). The original authors of the Fraser Institute report confirm that right-to-work laws "seem to drive differences in unionization rates among states" (Stansel and McMahon, p.12). This is hardly surprising: labour relations research consistently finds that unionization is strongly and negatively affected by right-to-work laws. The states which ban union security provisions, not surprisingly, score extremely high on the Fraser Institute's measure of "freedom" in the labour market. In fact, for the sub-component dealing with union activity, Mississippi's score (9.4) is the second-highest of any of the 60 states and provinces, and twice as high as Ontario's score.[12]

The Zycher paper is therefore making the following argument, although in a manner that will be hidden from readers who do not consult the Fraser Institute's original research. Zycher is suggesting that if Ontario pursued fiscal, social, and labour market policies similar to those of places like Mississippi and Arkansas (members of his third quartile benchmark), economic "freedom" would be enhanced, and Ontario's economy would become stronger. Never mind that incomes, economic conditions, health, and other indicators are far superior in Ontario to those right-to-work jurisdictions (and indeed outperform the entire "third quartile" average he is comparing us to). On the assumption that more "freedom" (freedom from government programs, freedom from taxes, and freedom from unions) makes an economy stronger, then that is the direction policy should move.

The precise numerical operationalization of Mr. Zycher's surprising logic is also highly questionable. He starts by noting that the average per capita GDP gap between the third and fourth quartiles of the Fraser Institute sample is $1755 (Cdn).[13] He then claims that Ontario's freedom score is *lower* than the fourth-quartile average, but this is clearly wrong: Ontario's sub-national score (5.46) is in fact slightly higher than the fourth quartile average (5.38).[14] He then argues that the potential GDP per capita gain from Ontario improving its freedom score to match the third quartile average, would be bigger than the difference in average real per capita GDP between the third and fourth quartiles.[15] He 'ballparks' the appropriate increment to Ontario's GDP from matching third-quartile "freedom" at a nice round $2000 per capita – implying an astounding $27 billion one-time boost to Ontario's GDP. Again, this ignores the fact (unreported by Zycher) that Ontario's GDP was *already higher* than the third quartile average. There is no attempt made to link the improvement in Ontario's "freedom" score to specific policy measures, and again no effort to explain why the third quartile average was the relevant benchmark.[16]

[12] The implication that workers in Mississippi are twice as "free" as workers in Ontario is horrifying.
[13] This uses the same erroneous exchange rate calculation as was noted above.
[14] It is not apparent from where Mr. Zycher attained the erroneous 5.0 score.
[15] Again, this assumes that economic freedom, as measured by the Fraser Institute, is the only relevant determinant of GDP.
[16] As noted above, both Mr. Zycher and the PC platform materials suggest verbally that Ontario should try to match the regulatory performance of leading Canadian provinces like Alberta. Alberta's economic freedom score (the highest in North America) was 7.87, and its GDP per capita in 2011 was $78,944 US. Following the same methodology as Mr. Zycher utilized with reference to the third quartile, emulating Alberta's economic freedom

Mr. Zycher then converts that $27 billion one-time gain in GDP obtained from matching the average economic freedom of the third quartile of jurisdictions into a one-time employment boost of 10,600 jobs, based on an estimated employment multiplier. In his earlier econometric model (used to generate estimates of GDP and employment gains for the other 3 policy planks he considers: corporate tax cuts, lower electricity prices, and freer trade with western Canada), Zycher attained a GDP-to-employment multiplier of 394 jobs per billion dollars of GDP. The expected $27 billion increase in GDP thus corresponds to 10,600 jobs (27 times 394).

The numerical tale became even more twisted, however, when the Ontario PC policy team took Mr. Zycher's results and inserted them into the party's program. In the technical backgrounder to its platform, the PC document claimed erroneously that Zycher's research predicted a gain of 10,600 jobs *per year* from regulatory reductions. Over eight years, they thus claimed, a total of 84,800 new jobs (10,600 times 8) would therefore result from the "one-third reduction" in Ontario's regulatory burden. This completely misinterprets Zycher's own findings. It is obvious even from Zycher's incomplete description (and from the much clearer description of economic freedom data provided in the original Fraser Institute report) that only a one-time gain of $27 billion in GDP could result from the upward harmonization of Ontario's economic freedom to match the arbitrarily-selected third quartile. Both Zycher's analysis and the original Fraser Institute data (in their data tab F1.4) clearly related economic freedom to GDP levels, not growth rates. So even if the extraordinary claim was accepted that by emulating the policies (including anti-union policies) of places like Mississippi and Arkansas, Ontario could boost its GDP per capita by $2000, that magical benefit can only be experienced once – not year after year.

Conclusion

The numerical simulation of the economic benefits from reducing regulation reported in Mr. Zycher's paper for the Ontario PC platform is described in an incomplete and misleading manner, contains several simple numerical errors, and is founded on a belief (namely, that economic "freedom" measured by smaller government, lower taxes, and weak labour standards automatically produces more GDP and employment) that most Ontarians would reject. Contrary to the claims of the PC platform documents, Zycher does not simulate the effect of reducing any particular regulations or even some general measure of regulatory intensity (rather, his whole analysis is based on simulating the effect of changes in "economic freedom"). He does not compare Ontario to other provinces: he compares it to 60 jurisdictions including 50 U.S. states. His "finding" that Ontario could produce $2000 more GDP per capita simply by emulating the fiscal, social, and labour market practices of certain U.S. states was blatantly and arbitrarily

should boost Ontario's GDP per capita by almost $30,000 per head, or an incredible $400 billion. That argument would be so transparently ridiculous that it is little wonder Zycher settled on his less shocking but completely arbitrary ballpark increment of $2000 per capita.

asserted; it is not supported by actual empirical evidence, and it is not believable. But then, incredibly, the PC policy team took that claim and erroneously *escalated it by a factor of eight*. Neither Mr. Zycher nor the Ontario PCs acknowledge that Mr. Zycher's results depend significantly on his belief that U.S. laws prohibiting union security arrangements (existing in jurisdictions like Mississippi or Arkansas) are good for economic performance.

In short, Mr. Zycher's fondness for anti-union laws, including so-called "right-to-work" policies which have supposedly been jettisoned from the PC platform, is deeply embedded in both the methodology and the empirical data used in this study. The fact that the Ontario PC party hired Mr. Zycher to complete this analysis, and then uncritically utilized his findings in such an important way in their election campaign, is clear evidence that the party's policy leadership must still agree with him.

Table 1
Fraser Institute "Economic Freedom" Scores
Selected States and Provinces

Jurisdiction	**Sub-National Freedom Score**	**Per Capita GDP**			**Labour Market 3C Freedom Score**[2]
		$US (Orig.)	*$Cdn (Wrong)*[1]	*$Cdn (Correct)*[1]	
Alberta	7.87	$78,944	$78,155	$79,814	4.8
"Third Quartile" Average	**6.21**	**$46,418**	**$45,954**	**$46,930**	**6.3**[3]
Ontario	5.46	$49,466	$48,971	$50,011	4.7
"Fourth Quartile" Average	**5.38**	**$44,645**	**$44,199**	**$45,137**	**5.8**

Source: Dean Stansel and Fred McMahon, *Economic Freedom of North America 2013* (Vancouver: Fraser Institute, 2013), Table 2.2 and Data Appendix, Tab F1.4, subnational scores. A higher score indicates more "freedom."

1. Original data applied a US/Cda exchange rate of 1.0101 (ie. $C=$0.99US), but the actual 2011 average was 0.9891 (ie. $C=$1.011US).
2. Data component referring to union activity; less unionization equals a higher score and hence more "freedom."
3. 3C scores for right-to-work states included in the third quartile include 9.4 for Mississippi, 8.8 for Arkansas, and 8.4 for Idaho.