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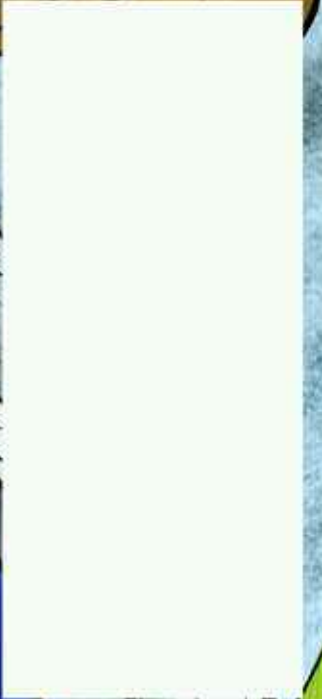
trade talk

The magazine of the B.C. and Yukon Territory Building and Construction Council

WE BUILD BC

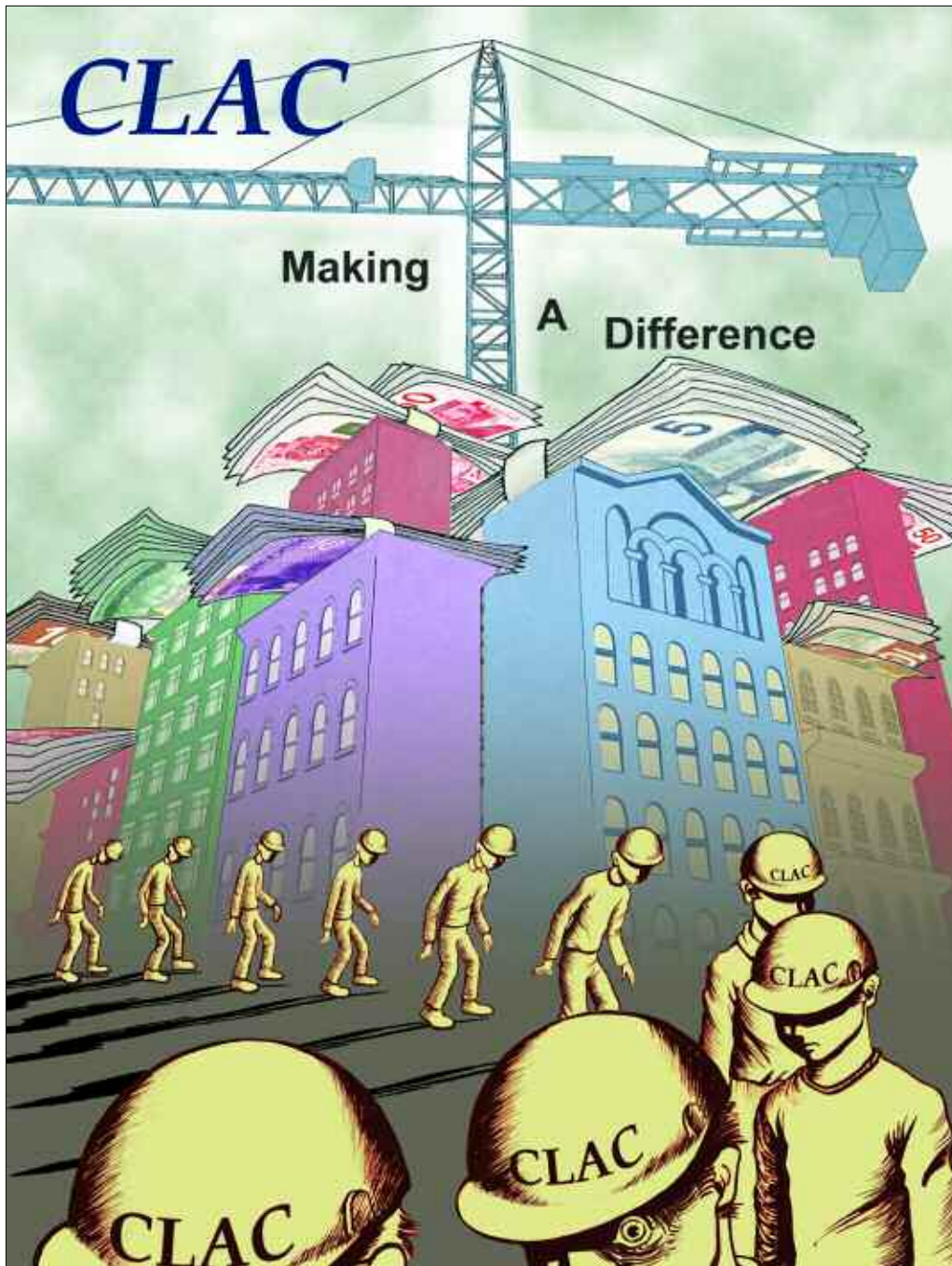
CONSTRUCTION
WORKERS
CAUGHT IN
A PERFECT
STORM
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and provincial labour federations are stepping up their
education campaigns about CLAC.
agreement under section 84(3) of the Labour
Relations Code applies for the purposes of
their

Construction Trades Council TRADE
TRADE



Shawn Luke graphic

THE Christian Labour Association of Canada is gaining market share at the expense of the traditional construction unions. It has seen dramatic growth in the Alberta oilsands.

Construction unions, and public sector unions also battling with CLAC and trying to hold onto members, are concerned that they're being dragged into a race to the bottom.

In B.C., the provincial Liberal government brought in changes to the Labour Code making it very difficult for traditional unions to organize worksites. It also slashed funding to the Labour Relations Board and made it harder for

WORKING UNDER CLAC

Article > Leslie Dyson
Photos > Joshua Berson

workers to stand up to unscrupulous employers. All these changes have created a perfect storm of troubles for the building trades unions and an environment conducive to CLAC.

Tradetalk spent several months talking to workers about their experiences

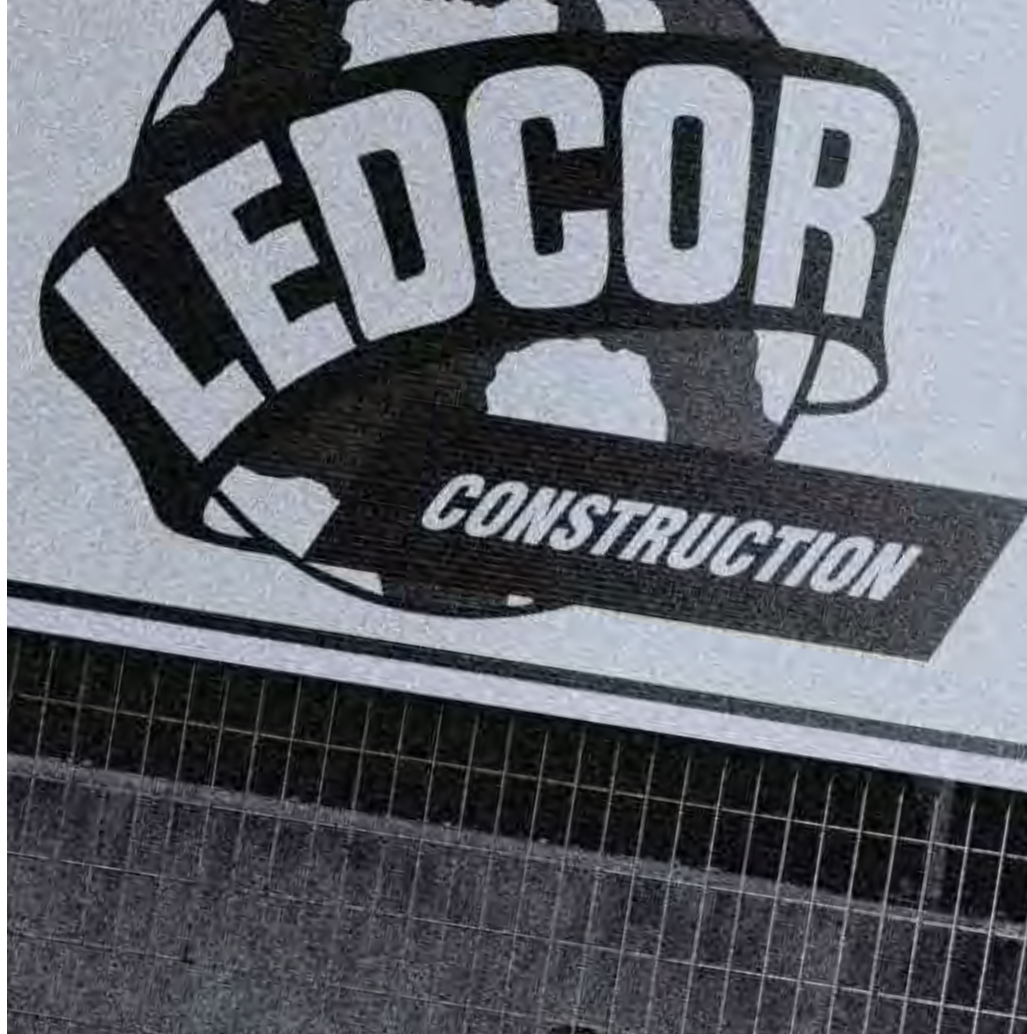
with CLAC. Unfortunately, many were reluctant to go on record. "I don't want my name put to anything," was a common response. That's because CLAC has filed many lawsuits in the past. However, you'll see plenty of criticism, frustration and anger if you Google "CLAC."

Naturally, we tried to get the association's side of the story. Emails, calls and even a visit to the office in Langley were declined. B.C. Director David Prentice said, "We don't know how to make it any more clear. We are not interested in talking to you."

What follows are the facts we were able to gather.

Top 10 reasons why CLAC is a problem

- 10 The association charges dues but workers complain that reps are hard to reach and are rarely seen.
- 9 There are many cases of workers who believe they've been excluded from voting on collective agreements.
- 8 There are many examples of the association undercutting craft union wage rates and benefits.
- 7 It is less concerned with craft designations, allowing tradespeople in one craft to do the work of another.
- 6 It's accused of poaching because many union-trained tradespeople are found on their sites.
- 5 It offers partial training that only covers skills needed for particular tasks.
- 4 The use of "Christian" in its name is not reflective of non-denominational worksites.
- 3 It has helped sponsor conferences designed to help employers repel unions.
- 2 It has supported anti-union government legislation.
- 1 Those most supportive of CLAC seem to be the employers.



» First hand accounts

BRETT CHAPMAN, a heavy equipment operator for 14 years, recalls the strange orientation session that he and 13 other tradespeople attended on July 10, 2009 just before being hired to work on Frontier Kemper's twin tunnel project in North Vancouver.

Project supervisor Richard Boutelle began with the usual message about everyone needing to watch out for one other, said Chapman, "but then he [Boutelle] added, 'We like CLAC [the Christian Labour Association of Canada]. We want to stay with CLAC and we're going to take everything away from you until your union gets it back for you.'"

And sure enough there were lots of complaints when the multimillion-dollar company "cheaped out on everything," Chapman said.

The company took a long time to repair the camera feeds in the tunnel that helped part of the crew keep an eye on the 10-person shark cages and massive loads being lowered and raised in the 680-foot deep pits. "They're all major lifts and

high risk," he said.

Deep in the tunnels, it's constantly raining condensation and the workers get soaking wet during their shifts. At the end of the workday, they hang up their coveralls and boots in a very warm room so their equipment is dry the next day. However, power went off to the dry room and the clothes remained soaking wet. Fortunately, a company supervisor backed up the workers who refused to go to work in wet clothes. "But no CLAC rep ever showed up on site," Chapman said.

During his months on the job, Chapman was also a CLAC shop steward. "Frontier Kemper is the worst job I ever worked on," he said. "Something came up every day." He spent many hours trying to assist workers who were being underpaid, verbally abused or not getting the materials to do their work.

"There were quite a few guys on work visas," he said. "they never spoke up because they knew they could be fired. They always felt threatened."

Chapman said he was also surprised to learn that the association charges



In addition to Ledcor Construction, other well known CLAC signatory companies in B.C. include Peter Kiewit Sons (Port Mann Bridge), Flatiron (Port Mann Bridge) and JJM Construction (South Perimeter Road).

higher dues for overtime work. "When you work overtime, your rates go up. It's not a set rate per month" as it is with traditional unions.

CLAC—the employers' choice

Some employers see a relationship with CLAC as a way to repel traditional trade unions. Rempel Bros. Concrete Ltd. in Langley, "a fiercely non-union company" according to its general manager, was a prime example. Last year, General Manager Doug Blender called his employees to a meeting to introduce them to CLAC

organizers. He wanted to thwart the repeated organizing attempts by the Operating Engineers Local 115 and Teamsters Local 213.

Doug Fisher, a mixer truck operator, was at the meeting. "You can't imagine the surprise in that room," he said. "I couldn't believe what was happening...In a few days we were going to be CLAC! We had to do something fast—very fast."

Blender told the employees that having a CLAC agreement would be "a great change and direction for the company." They were also told that if they didn't vote in favour of CLAC

and the agreement, they wouldn't get the raises that had been promised to them.

"It's always bothered me that they [CLAC] don't watch out for the worker," said Fisher. "They say they'll represent us, but they'd been working for months with the company beforehand to work out a deal."

The company's plan backfired when the employees showed their displeasure by voting in favour of representation from the operating engineers and teamsters.

You can read the full story at www.teamsters213.org

»» The case against CLAC

Workers just need to know the facts

BRETT CHAPMAN, a former CLAC shop steward, is now an organizer for the Operating Engineers Local 115. He said he tells workers who are members of CLAC or unaffiliated to any union, "Education is free. At least listen to both sides. Go to the websites. Don't just sign [a CLAC union card] because they're being nice

to you. Talk to people who were part of CLAC."

Organized labour agrees that given the choice, workers will choose a democratic union over an employer-friendly association. So, the Canadian Labour Congress (CLC) and provincial labour federations are stepping up their education campaigns about CLAC.

But even armed with the facts, Adam

Hodgins of the congress, said, "I think we're in for a fight. They're not going to disappear overnight."

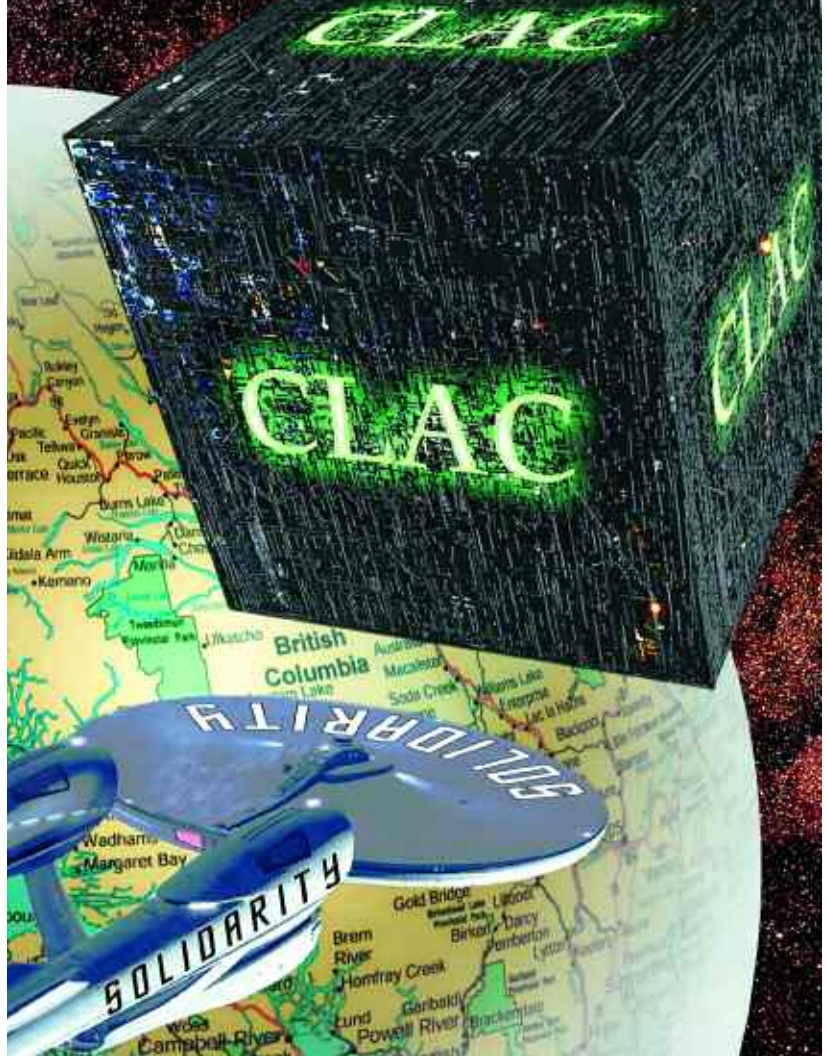
Tradespeople in the B.C. building trades are well aware of CLAC and other unions setting out to break the craft union model. There are many reasons for the animosity. The employer-friendly unions are accused of:

- undercutting craft union wage rates

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“
One thing cannot be denied. CLAC is listening to the criticisms. Like the Borg in Star Trek it adapts.
”

Susan Armstrong graphic



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- and benefits
- ignoring craft designations, allowing tradespeople in one craft to do the work of another
- poaching union-trained tradespeople
- disregarding full-scope Red Seal certification in favour of training that only covers skills needed for particular tasks

The antagonism between members of CLAC and the traditional unions is most visible in Fort McMurray where rallies have been held, fistfights have broken out and T-shirts and hardhats can be seen declaring opposition to CLAC.

One thing cannot be denied. CLAC is listening to the criticisms. Like the Borg in Star Trek it adapts. Well-publicized mistakes of the past are not repeated. Who knows what changes might be made if this article catches its attention.

“It’s a good analogy,” said Lionel Railton, president of the Operating Engineers Local 115. “And the reason they adapt is because they’re learning from us.”

Repeated attempts to talk to a representative of CLAC by phone, email and a personal visit to the Langley

office were rebuffed. CLAC’s Alex Pannu, left a message saying, “Nothing personal to you, but you’re writing for a trade magazine of our competitor so we have no interest in cooperating with you on your article. So good luck with that, but we will not be participating in any way.”

The receptionist at the Langley office remarked that she was well aware that CLAC draws controversy and that the office receives many requests for interviews from reporters and universities and often refuses them as well.

Christian focus makes some uncomfortable

CLAC was established in 1952 by Reformed Protestant Christian immigrants from the Netherlands and gained legal status in 1963. It claims to use its Christian principles as a basis for working with employers.

The principles in its constitution begin with “People bear the image of their Creator and, as such, must be treated with dignity, respect, and love.”

William Maarsman, an organizer for the International Brotherhood of Electrical Workers Local 213, said CLAC has had success appealing to vulnerable workers who are drawn to the Christian message. However, it’s

clear from CLAC’s promotional material that the word Christian is causing some confusion and concern.

The CLAC website states: “People sometimes wonder if we’re affiliated with a church or religious group or if we’re only a union for people of a certain faith. We’re none of these. Our name refers to the principles that undergird our approach in representing you. We’ve kept the word Christian in our name because these guiding principles are shared in the faiths and social traditions of all sorts of people around the world.”

CLAC’s wish for legitimacy as a trade union has also been called into question because of its sponsorship of international open shop conferences and attended by “the most notoriously anti-union employers in North America,” according to Jim Sinclair, of the BC Federation of Labour. It was a “silver sponsor” of the 2010 It’s Time! International Open Shop Conference held in Kelowna. Most union members would find it odd to see a union supporting a conference where employers could hear experts “explore how Canada’s labour laws are biased in favour of unions to the detriment of workers” and then learn how to change them.



CLAC has seen great growth in B.C., Alberta and Ontario, and now Saskatchewan, especially in the construction, health care and transportation sectors. It has grown from 17,000 members in 1997 to over 51,000, according to Human Resources and Skills Development Canada (HRSDC). That growth is largely due to the voluntary recognition agreements it won in the Alberta tar sands project, Hodgins said. CLAC claims to represent over half the workers in the oil fields.

CLAC is “hostile to traditional unions,” Hodgins said. “People within the building trades have tried talking to them, but they’re very litigious. They want people to back off.” However, he said, “When it comes time for disclosure, they don’t want to show their constitution. They don’t like to be exposed.”

Tradetalk did get a copy of the constitution and it’s clear they’ve had trouble with unruly members. There is considerable attention given to expulsion from CLAC for “circulating malicious information calling into question the reputation, character or integrity of a member, official, or union representative of CLAC,” “initiating or promoting the secession from the union,” “sub-

verting or undermining the union or its work,” “disrespecting the chair or engaging in other disruptive behaviour at meetings,” and “providing membership information or other internal union documents to a person or organization not authorized to receive such information.”

Bending rules to assist employers

In another case, CLAC found a way to reduce overtime pay on a road-building project in Burnaby, according to Tom Sigurdson, executive director of the BC Building Trades Council. Overtime pay is mandatory in B.C., but CLAC agreed to drop the wage rate after 40 hours by 20%. As a result, the overtime rate of time and a half was cut significantly.

Researcher David Fairey, in his report *Negotiating Without a Floor*, wrote “In one alarming case (JJM Construction Ltd. and CLAC Local 67, May 9, 2003 Letter of Understanding) employees’ regular rates of pay were reduced by 20% for work in excess of eight hours per day or forty hours per week, on Saturdays, Sundays, and statutory holidays, before overtime rates apply... The Employment Standards Act provisions relating to overtime wages

and statutory holidays require that the premium pay to be paid (time and one half or double time) be based on employees’ regular rates of pay. This JJM agreement violates the act as the effective overtime rates of pay are 20 per cent less than they would be under the minimum standards of the Act.”

Organized labour is concerned that CLAC agreements weaken the trades. There is less attention paid to training and less incentive for workers to move through the apprenticeship levels to become full-fledged journeymen. “They tend to keep people at the lower levels for longer so they get less money,” Hodgins said.

Rick Wilsher, an international organizer for the IBEW, said another important distinction between CLAC and the building trades is the hiring hall. The dispatching departments in trade unions ensure the work that is available is shared among all members. “CLAC seems to lack a hiring hall but that is one of the big benefits of belonging to a traditional union. They leave it up to the employers who do it themselves or farm it out to a third party.” Because every worker represents him or herself, there’s a high

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CLAC was a “silver” sponsor of the 2010 international open shop conference in Kelowna. Employers went to the conference to hear experts “explore how Canada’s labour laws are biased in favour of unions to the detriment of workers” and then learn how to change them.

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degree of insecurity. “It keeps people afraid,” Wilsher said.

Playing by different rules

According to the Mennonite Brethren Herald website, “One in five CLAC locals (sic) are voluntary recognition agreements, where management amicably agrees to CLAC’s presence without workers having to force the agreement through a legal procedure, which often happens with traditional collective agreements.”

According to the Canadian Labour Congress, the agreements are often made between just the employers and CLAC reps. Workers have no meaningful input into the wages, benefits or working conditions.

John Weir, director of organizing for the BC Federation of Labour, said “the Labour Relations Code and the policies of the Labour Relations Board’s don’t adequately protect workers from abuse of the voluntary recognition process by CLAC and similar unions. To make matters worse, Liberal changes to the Employment Standards Act have added to the problem and given employers an incentive to collaborate with unions that are willing to agree to undercut industry wages and working conditions.”

Maarsman said “The wage arrange-

ment is usually a couple of bucks lower.” In other cases, the benefits package is lower.

CLAC claims to use “dialogue” rather than “aggression,” but the CLC believes the approach has reduced workers’ rights.

Fairey’s *Negotiating Without a Floor*, also notes that “CLAC has frequently conceded to employers’ collective agreements with provisions below the standards of the Employment Standards Act...In many instances, this has resulted in a lowering of wages and working conditions below the...minimum protections of the act, and/or denying sections of their membership the core protections of the act.” Among the “substandard provisions,” Fairey found “CLAC agreements with clauses regarding overtime pay, annual vacations with pay and termination pay that are below the Employment Standards Act floor.”

Of course, top-down organizing (negotiating agreements with employers before work begins) is also done by the building trades unions. This is the case with Covanta’s Gold River waste incineration plant being considered by the provincial government. In these situations, building trades unions work co-operatively and, using the standard collective agreement as a base, try to achieve a project labour agreement (PLA) covering all craft

unions required for that job.

“The difference between the building trades and CLAC is that the craft unions are hammering out a deal that will protect workers and the quality of the work based on current collective agreements,” said Sigurdson. “It doesn’t stray very far from the agreements. And the PLAs also cover training, local hiring and construction employment for under-represented groups like First Nations, women and youth.”

The wall to wall strategy

CLAC and a few other groups representing construction workers favour an industrial model of representation—also called wall-to-wall. These groups accept workers, regardless of their trade designation, and may call on them to perform tasks outside their trade and expertise.

Geoff Meggs, labour activist and Vancouver politician, reported a conversation with CLAC’s executive director Dick Heinen on his blog in 2008. Heinen said CLAC allows members to work across trade or jurisdictional lines. “We have all hands on deck. We’re wall-to-wall in construction, which is more efficient and makes more sense than the craft model, where the carpenter can’t pick up a shovel.”

“I understand businesses and that they like to be in control,” said Maarsman. “They want you on a shovel





“Because every worker represents him or herself, there’s a high degree of insecurity. It keeps people afraid.”

—Rick Wilsher

one day and in an [electrical] box the next.”

However, craft unions, like the electrical workers’ union, find this unacceptable and work hard to protect their jurisdictions because it means better quality work and higher levels of safety.

Whose side are you on?

Another criticism frequently cited is that CLAC often sides with anti-union governments and has opposed legislation aimed at strengthening workers’ rights. It supported legislation in Saskatchewan that makes it easier for employers to terminate their existing union certifications with the craft unions and bring in associations like CLAC.

Terry Parker, from the Saskatchewan Building Trades Council, said CLAC wanted Ledcor Construction, a large CLAC signatory company, to have access to work in that province. Ledcor, with a big presence in B.C., Alberta and Ontario, had no construction projects in Saskatchewan up to that point. Months before the legislation took effect CLAC opened an office in Saskatoon.

Although Bill 80 had only been in place a few weeks, Parker said, “We were already seeing [signatory] contractors coming to us asking for concessions even though we have more

work right now than we’ve had in the past 30 years. They told us, ‘We need concessions because we have to compete with CLAC.’”

Many employers, like JV Driver (an industrial construction contractor), will sign on with whichever labour group gives them the best deal, said Parker.

CLAC has also been accused by organized labour of discriminating against young workers because it supports a lower increase in Saskatchewan’s minimum wage rate for people under 21.

Construction unions, and public sector unions also battling with CLAC over market share, are concerned that they’re being dragged into a race to the bottom.

Educating workers seen as the key

The Canadian Labour Congress launched an education campaign in 2007, Hodgins said, and since that time over 2,000 union members have been won over from CLAC. A further 1,000 workers have rejected CLAC representation. CLAC failed in a recent attempt to represent Vancouver airport screeners, he added. “When workers are given a real choice, real unions usually win,” Hodgins said. “CLAC represents the employer, really. There’s minimal input from workers. It’s very undemocratic.”

Organized labour’s latest tactic is to have CLAC expelled from the International Trade Union Confederation (ITUC). The BC Federation of Labour asked the CLC to make the request at the ITUC’s Vancouver congress in 2010. Over 1,400 union activists from around the world attended. So did CLAC, with a handful of representatives.

“Our affiliates do not believe CLAC is sufficiently democratic or effective in its representation,” wrote Sinclair. “It offends a fundamental principle of the modern trade union movement by promoting wage competition between workers.”

CLC President Ken Georgetti wrote to the general council of the ITUC saying, “They (CLAC) are, in fact, using their ability to attend the congress to legitimize themselves and bolster their image.”

Expulsion requires a vote of 75% of the members in favour. The issue will be talked about at the ITUC convention in 2012.

Maarsman said he thinks the best way to counteract CLAC is for the traditional unions to make workers and the public aware of their exceptional hands-on training programs, efforts to bring about safer construction work-sites, wide-ranging community work and the support they provide for members and their families.



WORKING UNDER CLAC

» Construction unions caught in a perfect storm

CLAC IS NOT the only problem plaguing B.C. building trades unions.

The number of non-union B.C. workers winning union protection through new certifications plunged to 1,700 in 2002 from 8,800 in 2000, according to Human Resources and Skills Development Canada. In recent years, certification figures have remained close to the 2002 level. Just 24% of construction workers have union coverage, compared to the provincial average of 33%, according to the B.C. Ministry of Advanced Education and Labour Market Development.

“Successful union organizing has come to an almost complete halt in this province under the present government,” according to *Crisis in Union Organizing* (2005) by Patrick Dickie from the Hastings Labour Law Office.

That freefall has mainly come from three sources—a change in the Labour Relations Code; the way the Labour Relations Board administers the code; and a political, economic and social environment that favours CLAC.

The provincial Liberal government amended the B.C. Labour Relations Code in 2001 by implementing a mandatory vote system for union organizing. Workers must demonstrate their support for a union twice.

First, a minimum of 45% of the employees must sign union cards. Then a vote, requiring at least 50% plus 1, is held up to 10 days later. Union organizers will tell you that the 10-day delay gives employers countless opportuni-

ties to discourage their workers from voting for a union. Every union organizer and labour lawyer can tell you stories of key union supporters being fired and employers threatening to close down their businesses when an organizing drive is under way.

“
Construction workers represent an important voting block. It's time for change.

Tom Sigurdson

In addition, the union organizing process bogs down in challenges and accusations of unfair labour practice complaints being hurled from both sides. The Labour Relations Board has to determine what actions constitute intimidation and coercion. However, the record of the LRB shows it takes “a very hands-off approach to the content of anti-union communications by employers, as well as continuing to allow employers to engage in political-style, anti-union campaigns,” wrote Dickie.

Labour lawyer Leo McGrady said “I generally urge clients to avoid the board even with fairly serious unfair [unfair labour practices] because it's

not very productive. I tell them, ‘You may get a hearing, but even if you succeed the reward is fairly inconsequential.’”

Tom Sigurdson, executive director of the B.C. Building Trades Council, said, “The provincial Liberal government has intentionally created an anti-union labour climate where workers are losing union representation and are afraid to speak up for fear of losing their jobs.

“We've seen cuts in funding for training and apprenticeships, workers who are not even receiving minimum employment standards, safety regulations cut by a third, inadequate safety inspections, and the list goes on,” he said.

“Less regulation and more non-union work lead to more dangerous construction worksites. There were two deaths in December on the same day and blocks from one another.

Sigurdson added, “We've met and talked to many cabinet ministers and although they appear to be listening and sympathetic, their actions indicate otherwise. The employers' lobby is very strong and the Liberal government seems uninterested in protecting workers or creating a level playing field.

“As we get closer to the next provincial election we'll probably hear many promises and nice statements again but we've learned that it's all empty rhetoric. Construction workers represent an important voting block. It's time for change.”