Court File No.:T-2010-11

"Proposed Class Action Proceeding"

FEDERAL COURT

B E T W E E N:

COMMITTEE FOR MONETARY AND ECONOMIC REFORM ("COMER"), WILLIAM KREHM, AND ANN EMMETT

Plaintiffs

- and -

HER MAJESTY THE QUEEN, THE MINISTER OF FINANCE, THE MINISTER OF NATIONAL REVENUE, THE BANK OF CANADA, THE ATTORNEY GENERAL OF CANADA

Defendants

AMENDED STATEMENT OF CLAIM

(Pursuant to s.17 (1) and (5)(b) ***Federal Courts Act***, and s.24(1) and 52 of the ***Constitution Act, 1982***)

(Filed this 19th day of January, 2012)

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Applicant. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or a solicitor acting for you are required to prepare a statement of defence in Form 171B prescribed by the ***Federal Courts Rules,*** serve it on the applicant's solicitor or, where the applicant does not have a solicitor, serve it on the applicant, and file it, with proof of service, at a local office of this Court, **WITHIN 30 DAYS** after this statement of claim is served on you, if you are served within Canada.

Copies of the ***Federal Courts Rules,*** information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO DEFEND THIS PROCEEDING, judgment may be given against you in your absence and without further notice to you.

Date: January 19th, 2012 Dec 12, 2011 Issued by: "Cheryl McCalman"

Address of local office:

Federal Court of Canada
180 Queen Street West, Suite 200
Toronto, Ontario M5V 3L6

TO: Department of Justice
Ontario Regional Office
First Canadian Place
The Exchange Tower
130 King Street West
Suite 3400, Box 36
Toronto, Ontario
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AND TO: Bank of Canada
234 Wellington St.
Ottawa, Ontario
K1A 0G9

CLAIM

1. The Plaintiffs claim:

(a) declarations that:

i) the Minister of Finance, and Government of Canada is required to request, and that the Bank of Canada is statutorily required, when necessary, to make interest-free loans, on the terms set out under s.18 (i) and (j) of the ***Bank of Canada Act, RSC, 1985, c. B-2*** (the "***Act***") for the purposes of "human capital" expenditures and/or municipal/provincial/federal "human capital" and/or infrastructure expenditures;

ii) that the "Government of Canada", the Minister of Finance, and Her Majesty the Queen in Right of Canada, with the Bank of Canada,

A/ have abdicated their statutory and constitutional duties with respect to ss. 18(i) and (j) of the ***Bank of Canada Act*** which subsections read:

18. The Bank may

...

(i) make loans or advances for periods not exceeding six months to the Government of Canada or the government of a province on taking security in readily marketable securities issued or guaranteed by Canada or any province;

(j) make loans to the Government of Canada or the government of any province, but such loans outstanding at any one time shall not, in the case of the Government of Canada, exceed one-third of the estimated revenue of the Government of Canada for its fiscal year, and shall not, in the case of a provincial government, exceed one-fourth of that government's estimated revenue for its fiscal year, and such loans shall be repaid before the end of the first quarter after the end of the fiscal year of the government that has contracted the loan;

B/ and further that the refusal to request and make (interest free) loans under s. 18(i) and (j) of the ***Bank of Canada Act*** has resulted in negative and destructive impact on Canadians by the disintegration of Canada's economy, its financial institutions, increase in public debt, decrease in social services, as well as a widening gap between rich and poor with an continuing disappearance of the middle class;

iii) that s. 18(m) of the ***Bank of Canada Act***, and its administration and operation, is unconstitutional and of no force and effect, in Parliament and the government, including the Defendant Minister of Finance, abdicating their duty to govern, and insofar, as monetary, currency and financial policies, ***per se***, are concerned, and in turn as they effect socio-economic governance, have abdicated their constitutional duty(ies) and handed them over to those international, private entities, whose interests, and directives, are placed above the interests of Canadians, and the primacy of the Constitution of Canada, not only with respect to its specific provisions, but also with respect to the underlying constitutional imperatives, and which provision reads:

> (m) open accounts in a central bank in any other country or in the Bank for International Settlements, accept deposits from central banks in other countries, the Bank for International Settlements, the International Monetary Fund, the International Bank for Reconstruction and Development and any other official international financial organization, act as agent or mandatary, or depository or correspondent for any of those banks or organizations, and pay interest on any of those deposits;

iv) that the maintaining of minutes of meetings by the Governor of the Bank of Canada, with other central bank "governors" from other states and federation(s), as secret and not open to parliamentary and public view and scrutiny, constitutes:

A/ ***ultra vires*** action by the Governor of the ***Bank of Canada*** contrary to ***inter alia***, s. 24 of the ***Act***;

B/ unconstitutional conduct by the Governor of the Bank of Canada;

v) that the Parliament of Canada, in:

A/ allowing the Governor of the Bank of Canada to hold secret the nature and content of his meetings with other central bank(ers); and

B/ in not exercising the authority and duty contained in 18(i) and (j) of the ***Act***; and

C/ enacting s. 18(m) of the ***Bank of Canada Act***;

has unconstitutionally abdicated its duty and function as mandated by ss. 91 (1a), (3), (14), (15), (16), (18), (19) and (20) of the ***Constitution Act, 1867,*** as well as s. 36 of the ***Constitution Act, 1982***;

vi) that the Minister of Finance is required to list expenditure(s) on "human capital", including infrastructural capital expenditures relating to "human capital", as an "asset" and not a "liability" with respect to budgetary accounting;

vii) that the Minister of Finance is required to list, in his budgetary accounting, ***all*** revenues collected ***prior*** to the return of "tax credits" to individuals, and moreover, corporate taxpayers, with tax credits subtracted from the total revenue due, before subtracting total expenditures from total revenue, and arriving at either a budgetary "surplus" or "deficit" as required, ***inter alia***, by s. 91(5) of the ***Constitution Act, 1867***;

viii) that the defendants' (officials) are wittingly and/or unwittingly, in varying degrees, knowledge, and intent, engaged in a conspiracy, along with the BIS, FSB, an IMF, to render impotent the ***Bank of Canada Act***, as well as Canadian sovereignty over financial, monetary, and socio-economic policy, and in fact by-pass the sovereign rule of Canada, through its Parliament, by means of banking and financial systems, which conspiracy and elements of such tortious conduct are set out, in ***inter alia***, ***Hunt*** v. ***Carey Canada Inc. [1990] 2 S.C.R. 959*** namely:

A/ that the Defendants' (officials), including and together with the BIS, engage(d) in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs, and all other Canadians;

B/ that the Defendants' (officials), including and together with the BIS, engage(d), in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, and all other Canadians, is to cause injury to the Plaintiffs and all other Canadians, or the Defendants' officials should know, in the circumstances, that injury to the Plaintiffs, and all other Canadians, is likely to, and does result;

ix) that the privative clause in s. 30.1 of the ***Bank of Canada Act***,

A/ does not apply to the seeking of "judicial review", by way of action or otherwise, of declaratory relief with respect to any statutory or constitutional ***ultra vires*** action and/or section of the ***Act***, by way of declaratory relief, or any other prerogative remedy, available to hear and determine the statutory and/or constitutional limits or actions under the ***Act***, in accordance with, ***inter alia***, in Supreme Court of Canada's pronouncement in ***Dunsmuir v. New Brunswick [2008] 1 SCR 190,*** nor does it apply to seeking damages for ***ultra vires*** or unconstitutional damages; and

B/ if s.30.1 of the ***Bank of Canada Act*** is interpreted to so apply as a privative clause, then it is unconstitutional and of no force and effect for breaching the Plaintiffs' constitutional right to judicial review, as well as breaching the underlying constitutional imperatives of Rule of Law, Constitutionalism, and Federalism;

(b) damages in the amount of:

i) $10, 000.00 per plaintiff; and

ii) should the within action be certified as a class action proceeding, $1.00 (one dollar) for every Canadian citizen/resident, to be calculated based on the last population figure published in the last census, in accordance with s. 91(5) of the ***Constitution Act, 1867***;

which damages are on account of:

iii) the constitutional breaches pleaded in the statement of claim herein; and

iv) the conspiracy pleaded in the statement of claim herein;

(c) such further declaratory and/or consequential injunctive and/or prerogative order and/or relief as counsel may advise and this Honourable Court grant;

(d) costs of this action and such further or other relief this Court deems just.

THE PARTIES

2. (a) the Plaintiff, Committee for Monetary and Economic Reform (hereinafter "COMER") historically to date is an international economic "think-tank", based in Toronto, and was established in ***1970***, dedicating itself to the monetary and economic reform policies of Canada and conducts research, analysis, and publication(s) on these issues. For the past 23 years it has published a monthly publication entitled COMER with articles and analysis from various authors including some of its own committee members. Its committee members have consisted of economists, academics, and published authors expert in their respective fields;

(b) the Plaintiff, William Krehm, is and has been a member of COMER, since its inception, and has devoted much of his life to the study, research, analysis and writing on economic, monetary, and social reform, and is a published author on economic and monetary reform, including various articles, papers, as well as books as recent as 2010;

(c) the Plaintiff, Ann Emmett, is a member of COMER, and has devoted much of her life to the study, research, analysis and writing on economic, monetary, and social reform, and is a published author on economic and monetary reform, including various articles, and papers, as recent as 2010;

(d) the Defendant, Her Majesty the Queen, is statutorily and constitutionally liable for the acts and omissions of her officials pursuant to s. 17 of the ***Federal Courts Act*** as well as s. 24(1) and 52 of the ***Constitution Act, 1982***;

(e) the Defendant, the Minister of Finance, is statutorily and ultimately, with the consent of Governor-in-Council, responsible for overseeing both the Bank of Canada, as well as the Governor of the Bank of Canada, pursuant to s.14 of the ***Bank of Canada Act***, and the Minister of Finance is also, constitutionally, responsible for setting out the budgetary process, and expenditures for each session of Parliament, upon the appropriation request, through the taxing power, of Her Majesty the Queen, as set out in Her Parliamentary throne speech delivered by the Governor General for that purpose;

(f) the Defendant, the Minister of National Revenue, is statutorily responsible for administering the ***Income Tax Act***, and other Federal taxing statutes related to the collection of revenue through, ***inter alia***, the taxing power, under s. 91(3) of the ***Constitution Act, 1867***;

(g) the Defendant, the Attorney General of Canada, is, constitutionally, the Chief Legal Officer, responsible for and defending the integrity of all legislation, as well as responding to declaratory relief with respect to legislation, including with respect to its constitutionality and required to be named as a Defendant in any action for declaratory relief.

THE FACTS

3. The Plaintiffs state, and the fact is, that The Bank of Canada was established as Canada's central bank, in 1934, and nationalized in 1938,with the intended purpose of:

(a) Asserting domestic and public control of monetary and economic control and public policy pursuant to its constitutional sources of jurisdiction contained in s. 91 and 91 A of the ***Constitution Act, 1867***, namely:

(i) 1A. The Public Debt and Property;

...

(ii) 3. The raising of Money by any Mode or System of Taxation;

(iii) 4. The borrowing of Money on the Public Credit;

...

(iv) 14. Currency and Coinage;

...

(v) 16. Savings Banks;

...

(vi) 18. Bills of Exchange and Promissory Notes;

(vii) 19. Interest;

(viii) 20. Legal Tender.

and as set out in s. 18 of the ***Act*** and its predecessor provisions;

(b) to be a vehicle to provide the Federal and Provincial governments interest-free loans for physical infrastructure as well as "human capital" expenditures (education, health, other social services); and

(c) maintain sovereign control over credit and currency with the aim to promote the economic interests of Canada in all its aspects.

4. The preamble to the ***Bank of Canada Act***, upon its enactment in 1934, as a private corporation, and as re-enacted as a Crown corporation in 1938, read as follows:

> WHEREAS it is desirable to establish a central bank in Canada to regulate credit and currency in the best interests of the economic life of the nation, to control and protect the external value of the national monetary unit and to mitigate by its influence fluctuations in the general level of production, trade, prices and employment, so far as may be possible within the scope of monetary action, and generally to promote the economic and financial welfare of the Dominion: Therefore, His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

5. The Plaintiffs state, and the fact is, that the current ***Bank of Canada Act***, continues to reflect a public statutory duty and responsibility, as borne out by the preamble to the ***Act***, which reads:

> WHEREAS it is desirable to establish a central bank in Canada to regulate credit and currency in the best interests of the economic life of the nation, to control and protect the external value of the national monetary unit and to mitigate by its influence fluctuations in the general level of production, trade, prices and employment, so far as may be possible within the scope of monetary action, and generally to promote the economic and financial welfare of Canada

6. The Plaintiffs state, and the fact is, that the Bank of Canada is the only "public" central bank created by statute, and accountable to the legislative and executive branches, to be found in any of the G-8 nations. All other central banks are "private" banks and are not directly created nor governed by legislation nor directly accountable nor reportable to the legislative or executive branches of the governments in the nations in which they operate.

7. The Plaintiffs state, and the fact is, that Policies such as interest rates, and other policies set by the Bank of Canada are set in consultation, and at times, but mostly at the direction of the "Financial Stability Board" ("FSB"), established after the 2009 "G-20" London Summit in April, 2009. The FSB is a successor of the "Financial Stability Forum" ("FSF"). The current FSB, like its predecessor, is an international body of central bankers that monitors and makes recommendations about the global

financial system. The Board includes all major G-20 major economies, FSF members, and the European Commission. The FSB is based in Basel, Switzerland.

8. The Plaintiffs state, and the fact is, that the current FSB, like its predecessor FSF, continues to serve the same function. It consists of the major national financial authorities such as Finance Ministers, central bankers, and international financial bodies.

9. The Plaintiffs state, and the fact is, that the FSF was and is managed by a small secretariat, which secretariat was housed at the "Bank of International Settlements" ("BIS") in Basel, Switzerland. It was established by the Hague Agreements, in 1930, ***prior to*** the creation of the Bank of Canada.

10. The Plaintiffs state, and the fact is, that the BIS is a so-called inter-governmental organization of central banks which purports to execute financial co-operation and purports to serve as a "bank for central banks". The Plaintiffs state, and the fact is, that the BIS in fact formulates policies and dictates to central banks, including the Bank of Canada.

11. The Plaintiffs state, and the fact is, that Canada, through its Bank of Canada, became a member of an expanded BIS in 1974. The Plaintiffs further state, and the fact is, that between 1934 to 1974 the Bank of Canada, and Canada, was completely independent, from international private interests, with respect to its statutory duties under the ***Bank of Canada Act***, as well as its monetary and financial policies reflected in the preamble to the ***Act***, and as it flowed through to its economic and social policies. The Plaintiffs further state, and fact is, that since 1974, there has been a gradual, but sure, slide into the reality that the Bank of Canada and Canada's monetary and financial policy are in fact, by and large, dictated by private foreign bank and financial interests, contrary to the ***Act***.

12. The Plaintiffs state, and the fact is, that the BIS is ***not*** accountable to any government. It holds annual meetings, which are secret, and provides banking services to central banks, including the Bank of Canada.

13. The Plaintiffs state, and the fact is, that the BIS is effectively in control of the FSB when it comes to credit, currency, monetary and financial policies for G-20 countries, including Canada, with far-reaching economic and social impact not in the interests of either the Bank, government, nor people of Canada.

14. The Plaintiffs state, and the fact is, that the meetings of the BIS and FSB, their minutes, their discussions, and deliberations are secret and not available to Parliament, the executive, nor the Canadian public, notwithstanding that the Bank of Canada policies directly emanate, and are directed by these meetings.

15. The Plaintiffs state, and the fact is, that in its early and middle existence the Bank of Canada issued (interest-free) loans, pursuant to s. 18 (i) and (j) of the ***Act***, and predecessor statutes, not only to the federal and provincial governments , but also directly to municipal councils. (It also printed money and bought government debt in financing the war efforts in World War II). It stopped doing so in the early ***1974*** in favour of loans from foreign private banks with interest, with the resulting and detrimental negative effects:

    (a) loss of the control of domestic monetary policy, including interest rate policy;

    (b) loss of control of domestic economic policy insofar as bond raters, from foreign private banks lending to Canada, would insist on the direction of Canada's domestic economic policy under threat of downgrading Canada's borrowing/lending worthiness;

(c) loss of control over social policies, from foreign private banks lending to Canada would insist on the direction of Canada's domestic social policies, under threat of downgrading Canada's borrowing/lending worthiness;

(d) loss of investment in human capital and infrastructure expenditures, from foreign private banks lending to Canada who would insist on direction of Canada's domestic human capital and infrastructure expenditures under threat of downgrading Canada's borrowing/lending worthiness;

(e) a corresponding loss of sovereignty over decision related to banking, monetary policy, economic policy, as well as social policy;

(f) as a result, spiralling schism between the rich and the poor in Canada with a continuing removal of the middle class and a corresponding rise in socio-economic crime related to poverty;

(g) the bizarre, and absurd result that, while private banks can borrow money from the Bank of Canada, currently, next-to-zero interest (0.25%), Canadian citizens, pay for the government's debt to private banks, and foreign private banks holding Canadian bonds and currency, which private banks relend at a higher interest rate than they borrow.

16. The Plaintiffs state, and the fact is, that this loss of control coincides with the Bank of Canada being a member of the BIS, FSF and FSB, without public scrutiny nor accountability with respect to the actions of the Bank of Canada, at the direction and decisions of foreign, private bodies and interests.

17. The Plaintiffs state, and the fact is, that in or about 1974, after Canada's entry into the expanded BIS, an agreement or directive was reached, at the BIS, where Canada's (central) Bank of Canada was the only publicly-created and accountable to its Parliament or Legislative body, that the central banks would not be used to create or lend-interest free money, contrary to ss. 18(i) and (j) of the ***Act***, and its original purpose for its creation, but that governments obtain borrowed money from and through the BIS (FSF, FSB, and International Monetary Fund ("IMF").

18. The Plaintiffs state, and the fact is, that no sovereign government such as Canada, under any circumstances, should borrow money from commercial banks, at interest, when it can, instead, borrow from its own central bank interest-free, particularly when that central bank, unlike any other G-8 nation, is publicly established, mandated, owned, and accountable to Parliament, and the Minister of Finance, and was created with that purpose as one of its main functions.

19. The Plaintiffs state, and the fact is, that over the years, Ministers of Finance have had requests to have the Minister make interest free loan requests from the Bank of Canada, which have been refused, examples of which are:

(a) on June 11th, 2004 the Town of Lakeshore, Ontario wrote the Minister of Finance, the Right Honourable Ralph Goodale, on Municipal Council Resolution, requesting such loans be made, which request is a document referred to in the pleadings herein;

(b) the Minister of Finance on August 18th, 2004 refused the request and in doing so did not have regard to either the nature of the request, nor the pertinent provisions of the ***Bank of Canada Act***, which response is a document referred to in the pleadings herein.

20. In his response, the Minister of Finance gave the following reasons for refusing to do so:

(a) that "…relying on the printing press to finance government expenditures results in inflation…";

(b) "….If the Bank had to borrow the funds that it loaned to the government it would have to pay whatever interest rate prevailed in the market…"

(c) "Other nations that have relied extensively on, low-interest credit extended by central banks….have experienced very high inflation…"

(d) "It is also inadvisable for the Bank of Canada to issue low-interest loans to provincial or municipal governments. To understand why, let us consider the

two approaches that the Bank of Canada could follow if it chose to issue such loans. Suppose that the Bank of Canada did not want to change the total amount of loans it had outstanding. In this case, the Bank of Canada could rearrange its portfolio of assets to provide some loans to provinces at relatively low interest rates. However, this would reduce the Bank of Canada's profits. Since the Bank is owned by the Government of Canada, this policy would result in federal taxpayers subsidizing provincial governments."

This has been a consistent response from the Government of Canada.

21. The Plaintiffs state, and the fact is, that the Minister's reasons for refusing what was requested from the Town of Lakeshore's Council, is both financially and economically fallacious and not in accordance with his statutory duties under the ***Bank of Canada Act***, nor his constitutional duties as Finance Minister. For example:

(a) any (interest-free) loans granted under s. 18 (i) and (j) would have to be repaid within a very short period and therefore would not be "inflationary";

(b) the Bank of Canada does not have to acquire its money from commercial banks to pay back any (interest-free) loans under s. 18 (i) and (j) in that it is statutorily mandated to do so, has done so in that past, and in fact lends money to the commercial banks currently, at almost zero percent (0.25%);

(c) that inflation would ensue is simply negated by the fact that currently, the U.S. Federal Reserve has a 0% interest rate while the Bank of Canada has a 0.25% rate with no inflating consequences, above and beyond the fact that, historically, such short-term (interest-free loans) have not, in and by themselves, caused inflation because they have to be repaid the next fiscal year; and

(d) on the fact that some Provinces may get more (interest-free) loans than others, this is neither contrary to the underlying constitutional principle of Federalism, nor the explicit terms of s. 36 of the ***Constitution Act, 1982.***

22. The Plaintiffs state, and the fact is, that the Minister's response is financially and economically fallacious, as witnessed by the current state of affairs, such as the U.S. Federal Reserve Bank (a private central bank) printing currency and "lending" it, to the commercial banks at 0% (interest-free), while the Bank of Canada's current lending rate is 0.25% (one quarter of one percent), above and beyond the "giving" or "bail-out" of hundreds of billions of dollars by the US and Canadian governments, as well as by the Bank of Canada, to purportedly avert a collapse of the international banking and financial systems.

23. The Plaintiffs further state, and the fact is, that this leads to the absurd and ***ultra vires*** result that while commercial banks obtain their money, from the Bank of Canada, at the Bank of Canada's prime leading rate, today at 0.25%, the citizens of Canada, through the Government of Canada, ***pay back*** the commercial banks, commercial lending rates which are higher than the Bank of Canada's prime rate, on the "national debt" owed to private commercial banks, accumulated on the annual "deficit" as calculated and set down by the Minister of Finance in the annual budget, and budgetary process.

24. The Plaintiffs state, and the fact is, that the Minister of Finance's refusal is purportedly based on the reasoning that such loans would increase the annual deficits and public "debt".

25. The Plaintiffs state, and the fact is, that the Minister's calculation of the public deficit and debt, as calculated and not amortised, is based on fallacious accounting methods, namely with respect to how expenditures directly relating to "human capital" are set out and amortised as "liabilities" as opposed to "assets". The Plaintiffs state, and the fact is, that expenditures and the capital obtained through those expenditures and the capital obtained through those expenditures with respect to human capital are "assets" and not "liabilities". The Plaintiffs further state that the Minister of Finance's budgetary accounting is also misleading and fallacious in the calculation of "revenues" as excluding tax credits given back on collected/collectable taxes.

26. The Plaintiffs state, and the fact is, that it has been long recognized that investment and expenditure in human capital is the most productive investment and expenditure a government can make. This was amplified and borne out by the phenomenal success and results of the reconstruction of Germany and Japan following World War II, which was realized by a subsequent study by Theodore Shultz, a Nobel Prize Winner, from the University of Chicago, and other noted economists.

27. The Plaintiffs state, and the fact is, that the notion and reality of "human capital" with its origins going back to Adam Smith, boil down to:

(a) acquired competency and knowledge of individuals, through education and experience, which in turn leads to the ability to perform labour producing economic output;

(b) along with this "human capital" attributable to individuals are the capital expenditures to make it possible such as schools, universities, and hospitals, etc;

(c) human capital is tied to the qualitative and quantitative progress of any nation;

(d) human capital is developed through health, education, and quality of standard of living which in turn translates to government expenditures and investments in schools, universities, hospitals, and other public infrastructures;

(e) human capital is always central to any analysis about the welfare, education, healthcare, and retirement of individuals, which in turn is central to a person's life, liberty, security of the person, as well as their equality within the Canadian state.

28. The Plaintiffs state, and the fact is, that while "human capital" expenditure, on human beings, and human capital expenditures (such as schools, universities, hospitals), while, in Canada, may not have a "marketable" or "sellable" value on the "free", "private" market, this does not mean, as interpreted and calculated by the Defendant Minister of Finance, that it has zero value when calculating assets and liabilities for deficit/debt purposes, nor in the manner in which these capital human expenditures assets are amortised for accounting purposes in that budgetary process.

29. The Plaintiffs state, and the fact is, that human capital has been viewed as a means of production through which additional investment yields additional output to the economy of any nation. This investment applies both to government and the private sector investments and expenditures.

30. The Plaintiffs state, and the fact is, that so long as the notion of expenditures on human capital are discarded, a critical intent and purpose of the ***Bank of Canada Act*** is rendered impotent, and equally discarded, with the results of statutory and constitutional breach(es) by the Minister of Finance and the Bank of Canada.

31. The Plaintiffs state, and the fact is, that BIS, FSF, FSB, and IMF were all created with the cognizant intent of keeping poorer nations "in their place", which has now expanded to all nations in that, these financial institutions attempt, and largely succeed, to over-ride governments and constitutional orders in countries, such as Canada, over which they exert financial control.

32. The Plaintiffs further state, and fact is, that, so long as human capital expenditures are treated strictly as "liability" and "debt", with no corresponding asset value, the government will not be investing in human capital infrastructure, or its ***own*** infrastructure for that matter. This is manifested for example, in government paying exorbitant rents on space for such things as Ministerial Departments, such as the Justice Department, as well as the Court themselves, where building or purchasing such assets would, in the long run, reduce those costs to a negligible fraction of the actual rental expenditures which increases the "deficit" and "debt" as (mis)calculated by the current budgetary process. The Plaintiffs state, and the fact is, that such is the case with all sales, rentals, or disposition ("privatization") of human capital infrastructure, including government infrastructure serving Canadians.

33. The Plaintiffs state, and the fact is, that with respect to the private corporate context, a company's value is routinely calculated as an aggregate of its capital assets and its "goodwill" for accounting, valuation, and income tax purposes. The "goodwill" of the company essentially boils down to its "human capital".

34. The Plaintiffs state, and the fact is, that the Minister of Finance's calculation of revenue, expenditures, and surplus/deficit, on an annual basis, is also fallacious and inaccurate by the statutory slight of hand and ***ultra vires*** accounting which is effected by means of the ***Income Tax Act***, through "tax credits". Thus, the annual budget is presented, in simple terms, as follows:

(a) total revenue collected (without setting out total tax credits given back to taxpayers before final payable tax is calculated);

(b) minus government expenditures (which includes misamortization of human capital expenditures);

(c) equals total surplus/deficit.

35. The Plaintiffs state, and the fact is, that on the Minister's presentation of a budget, the calculation is, for example, set out as follows:

(a) total revenue equals $240 billion;

(b) minus total expenditure of $280 billion;

(c) equals a $40 billion deficit.

When in fact, the real calculation and accounting should read, for example as follows:

(a) total revenue collected/collectable:

(i) $340 billion,

(ii) minus $100 billion returned to taxpayers by way of tax credits, for a total of $240 billion in revenues;

(b) minus total expenditures of:

(i) $280 billion,

(ii) while not counting nor properly amortizing human capital expenditures and assets;

(c) equals a deficit of $40 billion.

36. The Plaintiffs state, and the fact is, that the "deficit" amount of $40 billion, which is added to the annual debt every year, more often than not equals or constitutes the bulk of the "carrying charges" (interest/paid on the debt, to commercial banks, at market rate interest rates), while the Bank of Canada gives that money to commercial banks at the Bank of Canada's lower lending rate, an amount depravingly lower than what the government pays them back on its annual "debt".

37. The Plaintiffs state, and the fact is, that tax credits do not show up as government revenue, on the one hand, but are simply off-set against tax revenue and then a net figure is reported as tax revenue, as out in paragraphs 34 and 35 above.

38. The Plaintiffs state, and the fact is, that on the other hand "refundable" tax credits, which are credits whereby monies are remitted to the taxpayer, as opposed to non-refundable tax credits which simply reduce the amount of a taxpayers' taxable income, on the other hand, show up as "expenditures" or government spending in the budgetary process.

39. The Plaintiffs state, and the fact is, that the above "accounting method" used in the budgetary process are not in accordance with accepted accounting practices, are conceptually and logically wrong, and have the effect of perpetually making the real and actual picture of what total "revenues", "total expenditures", and what the annual deficits/surplus" actually is, what the annual "deficit/surplus" actually is, in any given year, and what, as a result the standing national "debt" actually is. Moreover, and more importantly, the Plaintiffs state, and fact is, that such "accounting" methods foreclose any actual or real debate, or consideration, by elected MPs, in Parliament, as the actual financial picture is not available nor disclosed to either Parliamentarians nor the Canadian public. The Plaintiffs state, and the fact is, that such accounting method breaches s. 91(5) of the ***Constitution Act, 1867*** and the duty of the Defendant(s) to maintain accurate "statistics".

40. The Plaintiffs further state, and the fact is, that this "accounting" has, in the past, been heavily criticized by the Auditor General.

41. The Plaintiffs state, and the fact is, that the defendants' (officials) are wittingly and/or unwittingly, in varying degrees, knowledge, and intent, engaged in a conspiracy, along with the BIS, FSB, an IMF, to render impotent the ***Bank of Canada Act***, as well as Canadian sovereignty over financial, monetary, and socio-economic policy, and in fact by-pass the sovereign rule of Canada, through its Parliament, by means of banking and financial systems, which conspiracy and elements of such tortious conduct are set out, ***inter alia***, ***Hunt*** v. ***Carey Canada Inc. [1990] 2 S.C.R. 959*** namely:

A/ that the Defendants' (officials), including and together with the BIS, engage(d) in an agreement for the use of lawful and unlawful means, and conduct, the predominant purpose of which is to cause injury to the Plaintiffs, and all other Canadians;

B/ that the Defendants' (officials), including and together with the BIS, engage(d), in an agreement, to use unlawful means and conduct, whose predominant purpose and conduct directed at the Plaintiffs, and all other Canadians, is to cause injury to the Plaintiffs and all other Canadians, or the Defendants' officials should know, in the circumstances, that injury to the Plaintiffs, and all other Canadians, is likely to, and does result;

42. The Plaintiffs state, and the fact is, that the proper accounting and setting out of the budgetary process, including the aggregate amount of taxes collected/collectable which is "given back" to taxpayers, and notably corporate tax payers, through tax credits, would result in the proper accountability and consequential political debate, through the elected MPs in Parliament, on the actual state of Revenues, Expenditures, Surplus/Deficit account, announced, and tabled in Parliament by the Minister of Finance, in his constitutional duty over the budgetary process.

43. The Plaintiffs state, and the fact is, that the "accounting" employed in the budgetary process, and an inaccurate and unavailable "statistic" of the aggregate of tax credits transferred back before calculations of net revenue, as well as the absence of the "asset" value of human capital and expenditures and infrastructure, violates s.91(5) of the ***Constitution Act, 1867***.

44. The Plaintiffs state, and the fact is, that the Minister's statutory and Parliamentary duty over the budgetary process, goes hand in hand with his statutory duty as ultimate authority, with the consent of Governor-in-Council, over the Bank Canada, under s.14 of the ***Bank of Canada Act***, and the authority and duty imposed by s. 18 (i) and (j) , and other duties, which includes the exercise of the statutory duty to ensure interest-free loans to the Government of Canada and the Provinces to execute and implement human capital expenditures which expenditures ought to be properly amortized and accounted, along with the proper accounting of tax credits, in the budgetary process, which process is ***constitutionally*** mandated, going back to the ***Magna Carta*** in the constitutional guarantee that the Crown can only imposes taxes, for the declared proposed expenditures, as set out in the throne speech, upon the consent (over the taxing power) of the House of Commons.

45. The Plaintiffs state, and the fact is, that s. 18(m) of the ***Bank of Canada*** Act, and its administration and operation, is unconstitutional and of no force and effect, in Parliament and the government, including the Defendant Minister of Finance, abdicating their duty to govern, and insofar, as monetary, currency and financial policies, ***per se***, are concerned, and in turn as they affect socio-economic governance, have abdicated their constitutional duty(ies) and handed them over to those international, private entities, whose interests and directives, are placed above the interests of Canadians, and the primacy of the Constitution of Canada, not only with respect to its specific provisions, but also with respect to the underlying constitutional imperatives.

46. The Plaintiffs state, and the fact is, that ***ultimate*** control and decision(s) under the ***Bank of Canada Act***, are made by the Minister of Finance, with the approval of the Governor in Council, by "government directive" under s. 14 of the ***Act***.

47. The Plaintiffs state, and the fact is, that the ***ultra vires*** (in)actions of both the Minister of Finance, and the Bank of Canada, as set out in the within statement of claim, have the result of breaching the rights of the Plaintiffs and all other Canadians, not only statutorily, but also their constitutional rights as follows:

(a) their right to life, liberty, and security of the person under s. 7 of the ***Charter*** by a reduction, elimination, and/or fatal delay of health care services, education and other human capital expenditures and services;

(b) their right to equality both under ss. 7 and 15 of the ***Charter***, but also the underlying constitutional right to equality, as identified in, ***inter alia***, the Supreme Court of Canada's decision in ***Winner v. S.M.T. (Eastern) Ltd.***, ***[1951] S.C.R. 887***;

(c) the underlying constitutional principle of Federalism;

(d) the expressed provision(s) giving effect to the underlying principles of Federalism, contained in s. 36 of the ***Constitution Act, 1982***.

(e) the constitutional right that statutes are not be rendered impotent in Parliament ***de facto*** abdicating its duty to govern.

48. The Plaintiffs state, and the fact is that as a result of the Defendants (') (officials') tortious, ***ultra vires***, and unconstitutional conduct, they have suffered damages as set out above, and in reduced services in human capital expenditures and infrastructure, as has every other Canadian citizen/resident.

49. The Plaintiffs state, and the fact is that as a result of the Defendants (') (officials') tortious, ***ultra vires***, and unconstitutional conduct they have also suffered damage to their normative constitutional order by irreparable harm to the constitutional supremacy required and dictated not only by s.52 of the ***Constitution Act, 1982,*** but also by the supremacy required and dictated by its underlying principles.

50. The Plaintiffs propose that this action be tried at Toronto.

Amended, at Toronto this 19th day of January, 2012.

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Solicitor for the Plaintiffs

Court File No.:T-2010-11

"Proposed Class Action Proceeding"

FEDERAL COURT

B E T W E E N:

COMMITTEE FOR MONETARY AND ECONOMIC REFORM ("COMER"), WILLIAM KREHM, AND ANN EMMETT

Plaintiffs

- and -

HER MAJESTY THE QUEEN, THE MINISTER OF FINANCE, THE MINISTER OF NATIONAL REVENUE, THE BANK OF CANADA, THE ATTORNEY GENERAL OF CANADA

Defendants

SERVICE OF A TRUE COPY ADMITTED ON
JAN 20 2012 @10:40am
ON BEHALF OF THE DEPUTY ATTORNEY GENERAL OF CANADA
per: Carla R Lyon
per: David Ching

AMENDED STATEMENT OF CLAIM

(Pursuant to s.17(1) and (5) (b)***Federal Courts Act***, and s.24(1) of the ***Charter***)

(Filed this 19th day of January, 2012)

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