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## **The Silencing of Canada's Symphonies**

**PETER DESBARATS**

When cellist Jean Christophe Guelpa of the Quebec City Symphony Orchestra applied for Employment Insurance benefits more than three years ago, at the end of the orchestra's season, he probably had no idea that his action eventually would pose a serious threat to most of Ontario's major orchestras and create profound concerns for orchestras across the country. But that's what is happening, as the chain reaction that Mr. Guelpa started in March 1996 brought Orchestra London Canada, in a sense, to its knees.

This week representatives of the orchestra were at City Hall petitioning for an emergency \$128,000 loan to help them meet an unexpected demand from the Ontario government for \$128,281 in back and current taxes. The assessment was for Employer Health Tax (ERT) which the government claimed the orchestra should have been paying since 1996 for musicians in its employ.

So far, only orchestras in London and Windsor have been hit with demands for back ERT's. But the government's action has sent shock waves through orchestras throughout Canada because it is the "second shoe" that they have dreaded falling since the federal tax court decided in 1998 that members of the Thunder Bay Symphony Orchestra were employees rather than independent contractors or freelancers.

Thunder Bay was where Jean Christophe Guelpa was playing in 1994 and 1995 before he left for the Quebec City Symphony Orchestra. It was his time in Thunder Bay that he used to justify his claim for EI benefits. In the 1998 Tax Court ruling, Mr. Guelpa won his case and collected his benefits but ever since then, Canadian orchestras have wondered whether and where Revenue Canada would next strike. When orchestral musicians lose their freelance status, it means not only higher payroll costs for their orchestras but fewer tax exemptions and, in effect, lower salaries for the musicians.

Although Revenue Canada showed no inclination to move quickly on this, the ruling in the Guelpa case was ominous. Only five orchestras - in Vancouver, Calgary, Quebec, Winnipeg and Halifax - treat their musicians as employees. All the rest use variations of the freelance arrangement practiced in Thunder Bay and that the tax court had rejected.

But Revenue Canada has remained quiet since then, perhaps because the judge in the Thunder Bay case reached the decision reluctantly, appreciating that the Employment Insurance legislation was never intended to apply to cultural organizations such as orchestras. The next strike came from an unexpected quarter. In Ontario's Ministry of Finance, the bureaucratic machinery slowly digested the Thunder Bay decision and, without any political decision being taken, started to apply it inexorably to the Employer Health Tax, beginning with orchestras in London and Windsor.

The Kitchener Symphony Orchestra, an hour's drive east of London, is worried that it might be next on the list. Further east, the last thing that the Toronto Symphony Orchestra needs after its long musicians' strike this fall is a tax reassessment. The orchestra of the National Arts Centre, just now regaining its balance after a year of financial crisis, is also concerned. But the greatest fear of orchestras across the country is that Ontario's move will trigger not only similar actions in provinces with their own forms of employer health tax but generate renewed interest at Revenue Canada in the tax status of symphony musicians. Should that happen, it would be devastating for Canada's orchestral community.

The 1990's has been a difficult decade for symphony orchestras everywhere, particularly in North America where reduced government support for the arts and in-creased competition for audiences have raised questions about the viability of this institution. Symphony orchestras in Hamilton and Halifax have gone

under, re-placed by Symphony Nova Scotia and a smaller "community orchestra" in Hamilton. Last week, the orchestra in North Bay suspended operations because of reduced government funding and declining audiences. The Kitchener-Waterloo Symphony Orchestra, struggling with an accumulated and current deficit approaching \$1 million, is publicly appealing to its community for help. Since the 1998 tax ruling, the Thunder Bay Symphony Orchestra has been trying to stay alive by negotiating with its creditors and launching a public appeal for funds. Revenue Canada has agreed to settle for 40 per cent of the \$249,000 it is owed but the orchestra so far has raised only half of the required \$150,000.

Behind the scenes, orchestras locally, and Orchestra Canada, the national organization, are desperately trying to persuade Ottawa and the Ontario government that political intervention is essential before the tax collectors inadvertently put the mute on orchestras in this province. Orchestras elsewhere in Canada are intently watching these negotiations.

London's board of control, a financial executive committee of city council, has approved Orchestra London's loan request. The proposal still has to go before the full council next week. But that's only a stopgap measure for Orchestra London and Canadian orchestras in general until the process inadvertently started by Jean Christophe Guelpa in 1996 is resolved.

***Peter Desbarats (desbarat@julian.uwo.ca) is a London author and journalist and a member of the board of Orchestra London.***