



# Buying Out: Of Capitulation and Contestation

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## **OUT OF THE MOUTHS OF “CASSEROLES”** *textes qui bougent au rythme du carré rouge*

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### **Buying Out: Of Capitulation and Contestation**

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The Charest government's imposition of Special Law 78 was seen by many to have crossed a line. The formal constraints it placed on the right to association and the exercise of free speech have been challenged in court by student associations backed by a coalition of 140 civil society organisations. The emergency measure has received widespread attention in the international press, drawing regular comparisons to Putin's Russia and attracting a strongly-worded denunciation from Amnesty International. Most importantly, it strengthened the resolve of the striking students in their battle against tuition increases, while broadened support for their movement among other sectors of Quebec society. Rather than putting the movement to rest, it intensified it, pushing it toward the threshold of a general movement of contestation. Anger boiled over at the unabashed attempt to short-circuit the social negotiation of a major political issue with an autocratic decree from the top.

Perhaps more sobering than Charest's crossing of the line was his government's apparent surprise at the reaction it elicited. The law was presented with a notable nonchalance, as if its provisions were not in fact in rupture with normal operating procedure, but merely represented a change in degree rather than kind. This attitude should not be too hastily dismissed. Implicit in the government's attitude is the proposition that Law 78 should be seen in continuity with the normal situation. The tacit hypothesis contained in the government's nonchalance is that the law merely formalised a *de facto* situation. In other words, the short-circuiting of social negotiation – the effacing of the political understood more broadly than as the ritual abdication of decision to a managerial elite of surrogate deciders through the periodic exercise of voting for the least-worst option one can bear – is a fact of life to which the populace should already be inured.

The first indication that this is indeed the case is that as of yet the Montreal City Police Service (SVPM) has not found it necessary to invoke Law 78. Its policing has indeed continued as if nothing had changed. The normal policing approach in Quebec, as throughout Canada, has shifted since the Summit of the Americas protests in Quebec City in 2001 and the 2010 G20 protests in Toronto. The shift has been from enforcement to preemption. Preemption is not prevention. The difference is that preemption actively produces what it fights, the better to choose the battle ground and respond with prepared tactics of choice.<sup>1</sup> What policing is ostensibly designed to fight is illegality. The SVPM has adopted the practice, for example, of declaring the entirety of a demonstration illegal and responding with overwhelming, life-threatening force against all those present when a small minority provoke the police



with acts of petty vandalism or stone-throwing. What is this, if not the mass production of illegality as a strategy of the state? It amounts to criminalising the exercise of the rights of assembly and free speech on the part of the great majority of those participating whose actions were and remained nonviolent, effectively short-circuiting social contestation. This was done purely on the grounds of physical proximity to others alleged to have committed infractions. In other words, peaceful protesters were declared guilty on the basis of association.

The only change that Law 78 has brought to this strategy is that after its passage the police began to declare demonstrations illegal before any infractions had been committed by anyone – in some cases, before the demonstration even began. Police spokesmen were careful to emphasize that this was done without invoking Law 78.<sup>2</sup> Emboldened by Law 78, but not as a function of it, the SVPM took the logic of preemption a step further in its natural direction. From short-circuiting contestation through criminalisation by association, the police moved to criminalising it a priori -- in order to preempt the association from occurring in the first place. Any gathering not pre-authorized by the police and conducted entirely on the terms laid out by them was to be considered illegal by nature. But of course, any demonstration occurring purely on the terms pre-imposed by the authorities is in no way contestatory. It is an orchestrated act of obedience.

This is the operation of preemption drawn into the tightest possible loop. It no longer waits for warning signs such as the stray rock thrown at police lines before criminalising the entirety of an event in anticipation of more trouble. Now, the anticipation moves forward to become an a priori. The desired effect is to short-circuit criminality into direct obedience. The collective act of political will that consists in coming together in the public square to manifest disagreement and build momentum toward an alternative settlement of a pressing social problem is simply pincer-ed into nonexistence. If this direct circuit between a priori guilt and direct obedience sounds Orwellian ... it isn't. If this effacing of the place of the political sounds totalitarian .. it isn't that either. This is something new, for which new concepts – and new responses – have to be invented.

To begin to understand what kind of formation preemption is a part of, it is helpful to look at another prong of its deployment. A similar pincer movement to the one that was used on the streets was applied to professors in the classroom at the earliest stages of the student strike. Professors at many universities and colleges were warned by their administrations that they would be in breach of contract and could face disciplinary action or dismissal if they expressed support for the student strike, or even if they let it be known to the students that they wouldn't penalize them for participating (for example, by giving them incomplete marks and making catch-up plans for missed work).<sup>3</sup> These decrees not only defined the student's exercise of their rights of association as a priori illegitimate, it inducted the professoriat into the role of enforcers of administrative fiat. It did this by reducing their role to that of

employees, devoid of any other social or political responsibility or standing, and then embedding in the role of employee an implicit duty of policing the institution on behalf of management. Another short circuit between a priori criminalisation of collective action and direct obedience was set in place that simply brushed aside the principles of academic freedom upon which the university, understood as the seat of liberal education, is theoretically founded. Precious few voices were raised in opposition. The extent to which so many professors were so easily preempted into line should be remembered by them with enduring shame, motivating a resolve that such a capitulation never be repeated.

The fact of the matter is that university administrations and the provincial and national governments to which they are beholden in Canada no longer look on the university as the seat of liberal education. They look on it as a service industry. The students' collective mobilisation could only appear as illegitimate against the backdrop of another right now promoted to front and center stage: the individual "right" of a student to receive the service he or she has paid for. A number of individual students successfully sought court injunctions on these grounds against the collective right of striking students associations to picket classrooms. This redefinition of students as clients and education as a fee-for-service industry begs the whole question of what the social role of education is or should be, and whether education itself is to be considered a right. The issue of education is presented as a closed book, before it can even be raised. In a word, education is preempted as a social and political issue.

The logic from which these preemption strategies issue is now clear to see. It is the logic of neoliberal capitalism. According to this logic, the university, like every sector of life, must be subordinated to the imperatives of the market. Those within the educational institution must be seen as playing essentially economic roles (employee, client), just as the institution as a whole can justify its existence only by adapting its structure and modes of operation, in teaching as in research, to the perceived needs of the market. Any logic of social functioning that is not directly couched in terms of the neoliberal economic model is treated as a priori null and void.

The issue of tuition increases was never simply an issue of individual students' finances. The student associations were very lucid from the start in linking tuition to larger questions. Backed by studies by IRIS,<sup>4</sup> they raised issues such as the progressive diminution in the percentage of university funding going to teaching in comparison to ever-expanding administrative structure and ever-higher management salaries (a trend mirroring that of private industry in today's economy). They also pointed to the increasing linkage between research and "deliverable" results useful to industry, which amounts to making the university a form of corporate welfare by enabling corporations to outsource research functions formerly performed and paid for internally. They quite rightly voiced cynicism that any

increase in revenue garnered through higher tuition would actually flow to the university's core teaching functions, considering that never in the history of Quebec have increases in fees actually translated, for example, into lower class sizes. The reasonable suspicion was that the increase would only further fuel the university's subsumption under the logic of neoliberalism, feeding greater "efficiencies" from even more top-heavy management, as well as more highly subsidised outsourcings for industry as the research funding system falls more and more completely under the imperium of the market. The issue of tuition was thus a wedge issue to open a wider discussion of the role of education in today's society, given the fait accompli of the null-and-voiding of the university's traditional liberal vocation as a seat of free inquiry and incubator of critical thinking, following upon its annexation to the "knowledge economy."

The preemptive policing we have seen, on the streets and in the halls of academe, is the political mode of expression of neoliberalism's colonisation of all sectors of life by the economic model. As part of that model, the figure of the "citizen" as fundamental social actor is replaced by that of the individual redefined as "human capital": what some commentators have called the "enterprise-individual" (which is also, not uncoincidentally, the subject of perpetual debt).<sup>5</sup> Preemption is the political mode of expression of the a priori depoliticisation of life under the mantle of economism. The formation of which preemption is an expression is neither Orwellian nor totalitarian in its basic structure, even if it produces effects of that nature when it hits the streets and enters the halls of our institutions. Of itself, it is, quite simply, capitalist. It is the econo-forming of life under the present-day system of capitalism.

Preemption is the form of expression of the logic of neoliberal capitalism's economistic usurpation of the realm formerly known as the political, in the broadest sense of collective mobilisation for social contestation and negotiation. It is the (de) political wing of neoliberalism's operative logic of econo-forming.

Pointing out this convergence between neoliberal capitalism and the authoritarianism-effects accompanying the operation of preemption is not an answer or an end-point. It is an open wound, and an open question – requiring a thorough rethinking of our concepts of government, the public sphere, and the place of education, as well our strategies in relation to them. It is just the beginning.

From the perspective of the reigning logic of economism, the student associations' commitment to experimenting with forms of direct democracy as a collective basis for a repoliticisation of the issues concerning them – so snidely ridiculed in the press – can only be seen as childishly "inefficient."

Long may inefficiency prosper!

If professors are to reclaim or reinvent for themselves a role other than that of employee in a corporate sub-industry, they would do well to emulate the "inefficiency" of their students. If the university is to have a chance of reclaiming its social role, or better, inventing a new one for the future, it will require this of its professors: that they also begin to act collectively again in the larger arena as social and political actors, beyond the confines of their home institution and in opposition to the institutionalised reduction of their station to a well-policed (policing) role on the corporate model. To do that their associations will have to unyoke themselves from their own corporatism – the self-serving behavior that professors' unions displayed, for example, in the 2005 strike at Université de Montréal, when they prioritised professors' pay over issues related to working conditions having a direct bearing on the quality – and the nature – of the education they provide. It would be a hopeful sign if the participation of the Quebec Teacher's Federation and the Université de Montréal professors' union in the court action against Law 78 and the increasingly vocal support on the part of many professors for the student strike<sup>6</sup> were indications of a first step beyond the traditional corporatism – and into the streets, shoulder to shoulder with the students who have had the courage to catapult the problems of the university and the question of the political under neoliberalism into the public eye, when the resolve of their elders had so noticeably faltered.

The Charest government's actions have made it as richly deserving of being voted out of office as Law 78 is deserving of being relegated by the courts to the dustbin of legal history. But if the response ends at the ballot box or court action, a historic opportunity will have been lost. The opportunity is to repoliticise - in the best, most directly democratic, sense of the term – Quebec's incomplete social project. It is not just a budgetary choice that we are facing, the students have never ceased reminding us since their movement began. It is, they have been saying, a choice of society. In this, they are profoundly right.

We all have the collective responsibility of ensuring that the choice does not end up being business as usual.

## Notes

<sup>1</sup> For a development of this distinction, see Brian Massumi. (2007). [Potential Politics and the Primacy of Preemption](#). *Theory and Event*, 10(2).

<sup>2</sup> [Le SPVM déclare illégale une manifestation avant qu'elle ne commence](#). (2012, May 23) *La Presse*.

<sup>3</sup> "Le Conservatoire de musique de Montréal ... a suspendu temporairement l'une de ses professeurs pour avoir reconnu la grève des étudiants de l'établissement." See [Grève étudiant: prof suspendue](#). (2012, March 26). *La Presse*.

<sup>4</sup> [Institut de recherche et d'informations socio-économiques](#).

<sup>5</sup> Maurizio Lazzarato. (2011). *La fabrique de l'homme endetté: Essai sur la condition néolibérale*. Paris: Éditions Amsterdam.

<sup>6</sup> For example: "[Quelque 500 professeurs d'université signent une lettre appuyant les étudiants en grève](#)."