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Court Ruling on Ontario's Bill 115

Teachers and Education Workers Win Another Battle for Rights

Steelworkers join teachers and education workers and 20,000 other working people of Ontario at first mass rally at Queen's Park against Billl 115 the *Putting Students First Act*, August 28, 2012.

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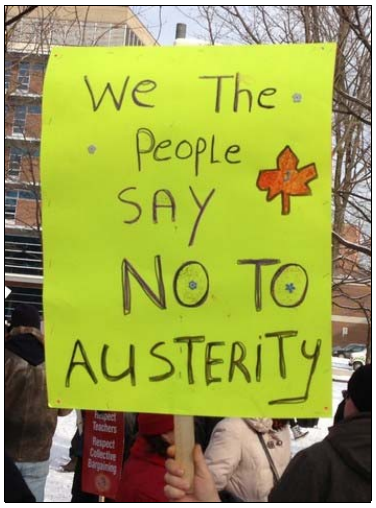
Court Ruling on Ontario's Bill 115

Teachers and Education Workers Win Another Battle for Rights



Ontario Political Forum congratulates Ontario's teachers and education workers on their victory in the courts following the ruling by the Ontario Superior Court of Justice that the Ontario government violated the *Charter of Rights and Freedoms* in its dealing with them during the 2012-13 round of negotiations in the K-12 education sector. The case had been before the courts since 2013 and was filed by the Canadian Union of Public Employees (CUPE), the Elementary Teachers' Federation of Ontario (ETFO), the Ontario Secondary School Teachers' Federation (OSSTF) and the Ontario Public Service Employees' Union (OPSEU), with the union Unifor participating as an intervenor. The ruling clearly exposes the nefarious attempts by the government to arbitrarily impose its illegitimate neo-liberal austerity agenda on teachers and education workers and locally-elected school board officials, culminating in the imposition of contracts using Bill 115, the *Putting Students First Act*. The legislation itself was in effect for less than five months before being repealed, but the measures it imposed have been left in place.[1]

This exposure of the government's actions is another clear indication that in standing up for their rights, including withdrawing from extracurricular activities in protest of the government's imposition of "contracts," teachers and education workers were defending the rights of all. It is evidence of the fear the ruling circles have over such an exposé that its airing took place four years after the fact. In the same vein it came only after the last Ontario provincial election as well as the federal election were well out of the way. In those elections the Liberals provincially and federally presented themselves as the biggest defenders of workers' rights in order to capture majorities. The Liberals were desperate to not have their dirty laundry aired at a time they were presenting the Conservatives as the ones which pose a

danger to working people, and themselves as the saviours.

The government's response to the Court ruling has been to claim that the past is the past and now there is a new leader, new Liberal Party and new bargaining process in place. After all this, they still think teachers and education workers are naive! It was their refusal to accept fraud and dictate which forced the ruling circles to "re-shuffle the deck" to bring forward "new" faces to enforce their illegitimate agenda. The fact that Premier Wynne and many members of the current Liberal and PC caucuses in Ontario voted in favour of Bill 115 and remain in office reveals a problem in terms of what to expect in the future. How to hold them to account now enters phase two.

Meanwhile the PCs who now have a new leader provincially are in denial about the role they played in the campaign to violate teachers' and education workers' rights.

For the teachers and education workers the ruling vindicates their fight to affirm their rights. Rights must not be subject to the whims of a government in power. Despite this, the ruling presents the government's anti-social neo-liberal aims as legitimate and only takes issue with the "precipitous" or abrupt methods used to achieve them. The ruling circles and the parties that champion their interests are sure to use the Court's decision to declare the neo-liberal austerity agenda legitimate. They will fine tune various fraudulent methods of "consultation, dialogue and negotiation" so as to declare that they are no longer violating rights because the teachers and education workers and others "agree." If people still disagree and resist the government will claim that their suppression is now justified.

So long as the anti-social offensive is imposed, No! will continue to mean No! to anti-social, anti-worker dictate and austerity.

Note

1. Backgrounder on Opposition to Bill 115 The *Putting Students First Act*

Discussion

The Means Were Consistent With the Aim

- Enver Villamizar -

The ruling of the Ontario Superior Court of Justice on Bill 115 generally asserts that the methods used by the government were the problem, not the aims. In other words, the attempt to remove

funds from public education by attacking teachers' and education workers' wages and working conditions may be lofty and legitimate, but the problem was the way the government went about achieving that aim. This is made clear in Justice Lederer's discussion of "remedy." According to the ruling it is now up to the parties -- the government, unions and school board associations -- to negotiate a remedy. If one cannot be achieved then the matter will return to the judge to be decided.

Justice Lederer points out in his conclusion, "The fact remains that Ontario was and may still be in a difficult fiscal circumstance. If so, we are all affected. Ontario accepted that it should act. The problem with what took place is with the process, not the end result. It is possible that had the process been one that properly respected the associational rights of the unions, the fiscal and economic impacts of the result would have been the same or similar to those that occurred."

In other words the means, although bad, do not negate the lofty aims. It is unfortunate that Justice Lederer felt it was his duty to make such a statement. It raises the question of why he felt the need to pontificate on such an important matter in such an off-hand manner. Being in difficult fiscal circumstances is always the justification governments use to violate workers' rights. The problem however is that the origins and solutions to that fiscal circumstance are not permitted to be discussed. Instead the circumstance is used to bludgeon the public through "Chicken Little" routines into accepting violations of their rights in the name of defending the greater good.

In this case, extracting billions from education workers' wages and working conditions in the form of sick days and wage freezes and cuts, and cutting off retiree benefits where those applied, was presented as a way to contribute to the fiscal health of the province. Those billions were then handed over to private interests in myriad ways. They were given to the banks in the form of interest payments; used as slush funds for infrastructure development to serve private companies and consulting firms lining up at the trough; and given directly to private companies who blackmailed the province demanding to be paid or they would leave, who the government obliged.[1]

Teachers and education workers did not accept these aims of the government and that is why they said No! on many occasions to the province, and to their own unions if it was apparent they were accepting the government's aims on the workers' behalf. This is why they refused to accept the government's arbitrariness and dictate and stood firm. The fact that the unions managed to negotiate whatever they could under the circumstances does not mean teachers and education workers accepted the government's ultimate aims.

Teachers and education workers also took their argument to the people of Ontario who gave their own No! to the government's anti-social agenda. This was made clear when, right on the eve of the passage of Bill 115, the electorate of Kitchener-Waterloo resoundingly defeated both the Liberals and PCs who together passed Bill 115 and championed its theft of billions from public education.

Rally of 30,000 Ontarians on January 26, 2013 which converged on the Liberal Leadership Convention in which Kathleen Wynne was selected Premier by delegates.

In repeatedly asserting that the ends may be righteous, Justice Lederer lets the government off the hook. In this way he hides that corrupt and arbitrary means are the result of an agenda which itself is corrupt and demands arbitrary means. If it were not so, the government would not have needed to impose its will. It would have ensured that those who are directly responsible for providing education to the province's youth are able to participate in deciding the direction of the province so that they can bring forward a pro-social program which harmonizes their interests and those of the people of Ontario with the general interests of the province, country and humanity. The government and ruling circles negate this participation because they are not interested in nation-building. Their only apparent concern is how to pay the rich who support them and keep their hands on the levers of power.

Note

1. One example is a $220 million grant to Cisco. Another is Waterloo tech firm Sandvine, which recently received $15 million while at the same time paying out almost the same amount to its shareholders in the form of a dividend.

New Challenges Facing the Working People

- Mira Katz -

Justice Lederer's ruling reveals a serious challenge facing the working people of Ontario and Canada going forward. Governments are now adapting their attempts to impose a corrupt agenda by seeking to let unions decide for themselves how best to attack their members' wages and working conditions on the basis of the claim that the aim of austerity is a lofty one. In his ruling Justice Lederer made a point of stating on numerous occasions that the different unions representing teachers and education workers were never told what targets the government had set

for concessions expected of them. All that mattered to the government were its goals system-wide.

He also noted that when the government took the roll-out of full-day kindergarten and increasing class sizes off the table for discussion -- something the unions also did not want to touch -- this limited free collective bargaining. Is this not an indication to governments that in future they should provide specific targets for concessions in order to be able to uphold freely negotiated agreements and not take "anything" off the table? When unions assert that they will not discuss attacking class sizes or other educational services as part of collective bargaining will they be painted with the same brush, claiming that they are not negotiating in good faith?

This set-up was already seen in the last round of K-12 negotiations where the Wynne government imposed a "net-zero" framework so that unions would be forced to accept the government's austerity parameters, but with some options over how they would be imposed. The unions are being attacked by governments trying to turn them into vehicles for implementing their austerity agenda while at the same time seeking to limit their ability to participate in politics and elections through various election financing reforms.

Teachers and education workers and all working people should discuss these matters amongst their peers and colleagues so that governments' attempts to destroy the unions by making them tools of their austerity agenda are defeated. Involving the entire polity in discussing Bill 115 showed that by standing with teachers and education workers the public was defending its own rights against government dictate. Now the discussion must deal with this whole new attempt to eliminate the right of the working people to say No! to a corrupt anti-social agenda.

For Your Information

Overview and Comments on Court Ruling

On April 20 Ontario Superior Court Justice Thomas Lederer found that Bill 115, the *Putting Students First Act* passed by the Liberal government joined by the PC Official Opposition on September 11, 2012, had substantially interfered with collective bargaining contrary to s. 2(d) of the *Charter of Rights and Freedoms* which states that everyone has the right to freedom of association. For the full ruling ***click here.***

In his reasons, Justice Lederer held that the government's process for collective bargaining was fundamentally flawed from the start. He showed in detail how the government failed to permit the unions representing Ontario's teachers and education workers to meaningfully negotiate their wages and working conditions.

Ontario Political Forum is providing the following overview and comments on the ruling for

readers' information to assist in the deliberation on how to uphold the rights of all under the circumstances.

What to Make of the Background Provided?

Justice Lederer began by providing what he felt was appropriate background information, setting the events of 2012-13 in the context of the "evolution" of collective bargaining within the K-12 education sector. This refers to the changes that took place between 1998, when funding for public education became a provincial responsibility rather than local through school boards, to 2014 when the government dictated a new legislated, non-voluntary system of provincial and local bargaining with Bill 122, the *School Boards Collective Bargaining Act*.

The main question he posed to himself for a decision was whether or not the government acted "precipitously" in its treatment of the applicant unions in the context of this "evolution" of bargaining and breached the *Charter*. Precipitously is defined as hastily, abruptly or extremely rapid. Clearly this differs from what teachers and education workers and others thought was being decided, which was whether or not arbitrarily imposing contracts and making resistance in the form of strikes illegal would be affirmed by the courts as a violation of rights, period -- not whether or not it represented action taken too hastily or abruptly.

Lederer set his ruling in the context of the provincial government's claims that all its measures sought to deal with the need to lower and eliminate its deficit incurred following the 2007-08 economic crisis. This deficit was accrued in a large part through various bailouts and handouts to the monopolies, especially in auto and the financial sector, described as "stimulus" spending. The government's rationale as cited by Lederer was that public sector workers' wages and benefits constituted a cost that had to be frozen and in some cases rolled back in order to lower and eventually eliminate the deficit. Lederer repeated the government's "Chicken Little" routine that Ontario's debt constituted a threat of impending financial collapse which had to be addressed. At no point was Ontario's current program to massively increase spending on infrastructure cited as an example of how fraudulent and self-serving were the claims to justify Bill 115 at the time. Neither was the fact that, since imposing the contracts to remove billions from public education using Bill 115, the government has been busy handing out billions of dollars to private interests in Ontario in various ways.

Parameters and Roadmaps

In reviewing the matter of whether the government acted precipitously, Lederer first took issue with the "parameters" the government imposed on the unions in the initial stages of central negotiations. These parameters sought to impose a neo-liberal framework on the negotiations from which the unions would not be allowed to escape. They involved drastic changes to teachers' and education workers' compensation and working conditions consistent with recommendations made by banker Don Drummond in his report on how to reform the delivery of public services in Ontario. Drummond's report was commissioned by the Liberal government with a mandate to devise neo-liberal means to balance the budget earlier than 2017-18 without increasing taxes.

Lederer stated: "What Ontario referred to as parameters were not goals to be achieved. They did not demonstrate boundaries, limits or a range within which meaningful bargaining could take place. They were specific changes to specific benefits and programs intended to be implemented across the education sector as a whole. Ontario said these changes would achieve its goals. The parameters were brought forward without any prior consultation, discussion or negotiation. They were terms Ontario wanted included in all collective agreements across the education sector. Where other options were proposed, they were dispensed with on the basis that they did not satisfy Ontario's sector-wide goals but without explanation as to why that was the case."

It is important to note that in many parts of his reasoning Lederer appears to say to the government that they need to give a concrete financial target for the concessions demanded of each particular union and who they represent in order to ensure that the unions have a "chance" of meeting those targets in ways other than those dictated by the government's broad parameters. This appears to be what Lederer felt would have satisfied the requirement for free collective bargaining.

He also referred to the government's claim that it was attacking compensation for teachers and education workers in order to preserve the "gains" that the Liberals had made, specifically full-day kindergarten and decreased class sizes. Lederer felt that eliminating these areas from the scope of negotiations constrained what could be negotiated to achieve the government's fiscal targets. He noted that the unions would have likely agreed not to touch these areas. However it appears that Lederer indicated that to have "free" collective bargaining in the future, the possibility of increasing class sizes as well as limiting full-day kindergarten should be made part of the "negotiations." One wonders if the unions will be accused of not bargaining in good faith if they do not accept attacks on these areas.

Lederer gave many examples from the submissions of the five unions involved in the case showing how they attempted to provide alternative proposals or means to achieve what they guessed were the government's targets for the groups of workers involved, only to have them rejected without any real explanation as to why, other than that they did not fit within the parameters.

Lederer discussed the government's shift from "negotiations" based on parameters to dictate and the passage and use of Bill 115 to impose a "roadmap" based on a Memorandum of Understanding (MOU) it had signed with the Ontario English Catholic Teachers Association on July 5, 2012. He took the government to task for using the MOU not as a "roadmap" which would provide guidance to the other unions but rather as a substitute for negotiation.

"By dictating that the OECTA MOU would be a roadmap for all other agreements in the education sector, Ontario did away with the need for any central negotiations. Typically, a roadmap provides guidance and direction. Presumably, this foresees at least the possibility of a different route being taken, perhaps to a different destination or result. That is not the way the idea of the roadmap was implemented by Ontario. OSSTF was told that Ontario would only consider "proposals containing the essential terms of the OECTA deal." The substantive terms and conditions of the OECTA agreement would be applied "in all education sector collective agreements." The parameters as set out in the OECTA agreement "...were to be non- negotiable," he wrote. It was expected that "...all school boards would...bargain within the negotiating framework articulated in the MOU between OECTA and the government," he said.

Lederer gave numerous examples of how the OECTA MOU (which was not ratified by the local presidents but only "endorsed" in a vote of 42 in favour and 24 opposed, after it was ratified by the Provincial Executive) included provisions that did not really apply to OECTA but did to other unions. He pointed to this as evidence that the MOU was used to replace negotiations with those other unions. One example he gave was of the post-retirement benefits which applied to certain education workers represented by Unifor (then Canadian Autoworkers). The benefits were eliminated using the OECTA MOU, and shortly afterwards the takeover of the school board in Windsor-Essex where the affected Unifor members worked." OECTA did not have such rights. Their removal was no concern to them. The benefit was removed by the OECTA deal without warning and without any opportunity for the affected members of the affected union (Unifor) to take part in the negotiations that led to this result," he wrote.

Government's Claim of Justification

Moving to the passage and use of Bill 115 itself, Justice Lederer dealt with the government's claim

that the legislation was justified under the circumstances and as such did not breach the *Charter*:

"Counsel for Ontario was candid to say that, read on its own, this legislation was in breach of s. 2(d) of the *Charter of Rights and Freedoms*. The problem, he suggested, was that the *Putting Students First Act* should not be read on its own. It must be read in context. Over the course of the months beginning in February, 2012 and ending with its passage, the applicants had been given ample opportunity to make representations to Ontario. These representations, to the extent they were made, had been considered by Ontario. As a result, changes were made to the parameters that had been set. Accordingly, Ontario had discharged its constitutional responsibility and was free to pass the required legislation. Counsel pointed out that the case law recognizes that, in some circumstances, legislation may be required and available without causing a breach of the *Charter*."

Lederer did not agree with the government's assertion that it had fulfilled its constitutional responsibility, nor that the actions were justified under the circumstances. He outlined the evidence provided by a government submission from former Bank of Canada Governor David Dodge as well as evidence by economist Hugh Mackenzie on behalf of OSSTF concerning the state of the economy and whether the outcomes justified the actions. Lederer felt that "the end sought by Ontario [wage freezes, elimination of sick day banks and other concessions - *OPF Ed. Note*] could have been achieved through more targeted legislative or administrative action and fairer, meaningful collective bargaining," adding that "[t]he impact was not just on the economic circumstances of education workers but on their associational rights and the dignity, autonomy and equality that comes with the exercise of that fundamental freedom."

After reviewing other legal tests for justification such as whether the actions were rationally connected to the government's goals and proportional to the problem being addressed, Lederer ultimately ruled that the government's actions were arbitrary.

"Arbitrary" is an adjective. It can describe a thing which is based on chance or is unfair. Cambridge Dictionaries Online explains the latter as follows: "using unlimited personal power without considering other people's wishes." In this vein, "arbitrary" can also mean "despotic," he wrote.

"The putting in place of the means by which the Ontario's goals were to be met was arbitrary.

"I find the means used to accomplish Ontario's goals were arbitrary and not based on care of design. It follows that the means adopted were not rationally connected to Ontario's objectives. In understanding this conclusion, it is useful to consider the following statements made in *Meredith v. Canada* (Attorney General) albeit in dissent:

'"The fact that there are fiscal concerns does not give the government an unrestricted license on how it deals with the economic interests of its employees.'

"and

'"While wage rollbacks are technically seen to be rationally connected to fiscal stability and responsibility, the refusal to engage in any meaningful form of consultation is not."'

Right to Strike

Lederer also took issue with the government's claim that it did not violate the right to strike because Bill 115 itself did not prohibit the right to strike. The outlawing of strikes connected to Bill 115 was a major concern for unions in launching the court case.

"The ability of Ontario (the Lieutenant Governor in Council) to prohibit a strike did nothing other than close the final door on the ability of the applicants to act against the actions of the government and to use their association to forward their goals for their contracts. If it 'appeared' that they were

not able to arrive at an arrangement with their respective employers (the school boards) that fulfilled the direction to comply with the OECTA deal or if they had not settled, consistent with that direction, by December 31, 2012, Ontario could remove the only remaining arrow in their collective bargaining quiver, the right to strike. As it turned out, once an agreement was imposed, the *Labour Relations Act* would take over. [To make the strike in the form of withdrawal of extracurricular activities illegal, which the board did. - *OPF Ed Note*] With an agreement in place, the prohibition on a strike while a collective agreement remained in place would govern. The fact that no order [by the government] prohibiting a strike was made does not change this. The breadth of the prohibition order made by the Lieutenant Governor in Council would put in place could extend well beyond an actual work stoppage to 'threatening' or 'encouraging' a strike. This was an obvious constraint to doing anything in support of a strike. Why do it when Ontario possessed this extraordinary and arbitrary power to stop anything that might lead to a strike, quite apart from actually being on strike? Why would a school board (an employer) respond to such a threat knowing the goals and authority of the funder (Ontario)?"

In conclusion Justice Lederer granted the application of the appellant unions that their *Charter* rights had been interfered with.

Redress

Moving to the issue of redress for this violation of rights, Justice Lederer gave his "observations" on what would be the remedy. He asked the lawyers for the applicants and the government to consider his perspectives as they try to come to agreement. Lederer chose to do so despite being clearly asked by the applicants not to rule on a remedy. Amongst other things he "observed":

"The fact remains that Ontario was and may still be in a difficult fiscal circumstance. If so, we are all affected. Ontario accepted that it should act. The problem with what took place is with the process, not the end result. It is possible that had the process been one that properly respected the associational rights of the unions, the fiscal and economic impacts of the result would have been the same or similar to those that occurred."

He then added: "The mark of success in finding the proper balance is positive, fair and meaningful collective bargaining. The adversarial and confrontational conduct which governed the process in this case fell short. Both sides contributed. Ontario and the applicants have a continuing and ongoing relationship. At the moment (without having heard any submissions), it is not clear to me what would be accomplished by any substantial or overly aggressive remedy. Could it reward one side to the detriment of the process as a whole? We are all still learning."

The irony must have been lost on Justice Lederer that after ruling against interfering in free collective bargaining, he would now foist the same neo-liberal framework on the negotiations for a remedy. He suggested that the unions and their members who are in fact the ones defending the public interest will be in conflict with the public interest if they demand a "substantial or overly aggressive" remedy. What good is a remedy if it does not provide actual redress for the victims and make them whole again as well as provide a deterrent against future violations of the law? What whole means will have to be worked out.

However Lederer's position sounds eerily similar to the government's own claims that teachers and education workers and indeed all public sector workers must accept restraint, ie., not demand compensation and working conditions commensurate with the work they do, at the risk of harming Ontario. All the while, the billions stolen by government to pay off private interests is not identified as "substantial or overly aggressive." The fact that should the parties be unable to come to an agreement, the decision on remedy will be in Lederer's hands reveals that a new round in the battle for rights in Ontario is shaping up. If the government simply refuses once again to negotiate properly citing Lederer's "observations," it will then be up to Lederer to decide. Clearly the matter

of redress and its importance must be taken up by teachers and education workers and their unions in order to make clear their stand on the matter.

Who Said What

Government of Ontario

A spokeswoman for Education Minister Liz Sandals provided the following statement to media:

"Our top priority is the success and well-being of all of our students. At this time, we are reviewing the decision by Ontario Superior Court of Justice.

"We value the important work that teachers and education workers across the province do every day to support our students' achievement and well-being.

"Since 2012, our government has worked with the teacher federations, education worker unions and school boards to introduce the *School Boards Collective Bargaining Act*. We are pleased that under this legislation we have successfully reached nine central collective bargaining agreements.

"We will continue to work with our education partners across Ontario to ensure that our students continue to achieve excellence."

Premier Kathleen Wynne responded to a call from NDP leader Andrea Horwath in the Legislature on April 21 for an apology "to parents, students and education workers for trampling on collective bargaining rights and throwing our schools into chaos" by saying:

"When I ran for leadership in 2012-13, I was very clear that I had problems with Bill 115. Bill 115 has been repealed. We have established a new bargaining process. We are working with the education sector. I believe that the move away from Bill 115 was exactly the right thing to do. [...] My career has been built on partnerships within the education sector, on the management and the employee side. I will stand up any day for the education sector, and that is how I got to this place. That's how I will continue."

Progressive Conservative Party

Progressive Conservative Leader Patrick Brown tried to divert from his party's full support for Bill 115 and violations of rights by stating:

"Clearly, the minister's office didn't do their research when they first imposed [Bill 115]. I would have assumed they would have had a legal interpretation to make sure it wouldn't be challenged in the court. It's a shame all of these funds went into legal costs rather than students."

NDP

Ontario NDP Education Critic Lisa Gretzky released the following statement in response to the decision of the Superior Court:

"Yesterday's ruling proves what Ontarians knew all along, Bill 115 had nothing to do with 'putting students first'. Instead it violated the *Charter of Rights and Freedoms*, interfered with collective bargaining rights and threw our schools into chaos -- and it's parents and education workers who

have, and will, pay the price.

"The 2012-2013 school year was filled with frustration and uncertainty, these aren't the conditions under which students can focus on learning but each time this government acts out of their own self-interest, our children's education is compromised.

"While Premier Kathleen Wynne is now trying to distance herself from this legislation, education workers know where she stood four years ago and they know that her government tabled back to work legislation just last year. Like Bill 115, Bill 103 was supported by both the Liberal and Conservative parties. It's time for the government to apologize to education workers, parents and students for the chaos they've had to endure over the last four years in our education system."

Unions Respond

Elementary Teachers' Federation of Ontario

ETFO said in a statement, "The Elementary Teachers' Federation of Ontario (ETFO) and other education unions have won a major court victory at the Ontario Superior Court of Justice today. The court found that the Ontario government's Bill 115 imposed in the fall of 2012 was a violation of the collective bargaining rights of education unions.

"In his decision, Justice Lederer ruled that the passage of the *Putting Students First Act* infringed upon union members' rights to meaningful collective bargaining under the *Charter of Rights and Freedoms*. He also determined that the process the government engaged in was 'fundamentally flawed.'

"'This is a total vindication of our pursuit of democratic rights on behalf of our members,' said ETFO President Sam Hammond. 'ETFO and its legal counsel acted as the lead in launching the Charter challenge in the fall of 2012 because, by imposing the terms and conditions of our members' contract, the Ontario government abrogated teachers' collective bargaining rights, including their right to strike.'

"Bill 115 blatantly interfered with lawful collective bargaining activities in the education sector for three years. It put the actions of the government beyond the review of the Ontario Labour Relations Board, outside the reach of the Ontario Human Rights Commission, and even above the courts.

"Justice Lederer did not comment on a remedy for the parties. The parties are now required to meet to determine a remedy. If they are unable to reach agreement on a remedy, the matter will be referred back to Justice Lederer for a decision."

Ontario Secondary School Teachers' Federation

OSSTF President Paul Elliott noted that "Justice Lederer confirmed what we believed all along." In a statement OSSTF said "The Court found that 'considering the overall process undertaken, the actions of the Ontario government substantially interfered with meaningful collective bargaining.' The Court also found the Ontario government's approach to bargaining was 'ill-conceived.'

"It is unfortunate that the government's approach created such unnecessary and negative consequences for the education sector," added Elliott. "And we are pleased that the Court has reconfirmed the importance of free, fair and meaningful collective bargaining," he concluded.

Canadian Union of Public Employees

CUPE represents 55,000 education workers in Ontario, including custodians, administrative and

clerical staff, educational assistants, instructors, tradespeople, early childhood educators, and many more, across all four school board systems (English and French, Catholic and public). It called the Ontario Superior Court ruling a significant victory.

"CUPE's position has always been that Bill 115 violated our basic *Charter* rights," said Terri Preston, chair of the union's education sector coordinating committee. "We saw it as a threat to all Canadian workers, and we couldn't let it pass unchallenged. The court validated our position that this Bill was a gross overreach that trampled basic freedom-of-association rights.

"Significantly, in his ruling Justice Lederer wrote that the impact of this flawed piece of legislation was 'not just on the economic circumstances of education workers but on their associational rights and the dignity, autonomy and equality that comes with the exercise of that fundamental freedom.'

"This couldn't send a clearer message to governments that they ought not interfere in free collective bargaining," Preston said, adding "It's a terrific ruling for education workers in Ontario and in building on the existing case law, for all Canadian workers."

CUPE Ontario President Fred Hahn said, "After this lawsuit was initially filed, the Supreme Court of Canada (SCC) ruled in the Saskatchewan Federation of Labour case that workers have a constitutional right to strike. CUPE was a lead union on that SCC case, and victory there gave us great confidence in our case here. We are thrilled the Superior Court has agreed that the government's approach to collective bargaining was 'fundamentally flawed.'

"We will meet with the other unions with whom we engaged in this court challenge to discuss what we want to see by way of remedy," said Hahn. "We will continue to work together to preserve basic collective bargaining rights. We call on the Liberal government to accept this ruling and put any thought of a costly appeal out of their minds. Now they must spend time, energy and resources on remedy, and on strengthening the public education system in Ontario."

Ontario Public Service Employees Union

OPSEU represents 2,700 education workers at seven Ontario school boards. According to OPSEU, the court ruling that the Ontario government violated the rights of education workers has solidified collective bargaining rights for workers across Canada.

"Yesterday's decision is a great victory for education workers in Ontario," said OPSEU President Warren (Smokey) Thomas. "It confirms what we've been saying all along, namely, that the Liberal government trampled those workers' Charter rights in its fanatical pursuit of reduced wages and working conditions.

"But what is just as important is that this case adds another brick to the legal foundation of collective bargaining rights in Canada," he said. "Governments need to recognize that workers' rights to unionize and take part in collective bargaining are protected by the *Canadian Charter of Rights and Freedoms*."

OPSEU's Thomas called the Liberal government's approach to collective bargaining "high-handed" and "disdainful of frontline workers and their families."

"Since 2010, the Liberals have mounted an intense campaign against frontline workers in the public sector," he said. "The sole purpose of that campaign has been to pay for corporate tax cuts introduced in 2010 and 2011 and fund overpriced public-private infrastructure projects delivered by high-ranking donors to the Liberal party."

"Our union will continue to oppose the Liberals' blatantly anti-worker agenda."

Unifor

A tweet from the Unifor Twitter account said on April 21: "Court rules Ontario violated teachers' right to strike & Unifor retirees had benefits taken away without notice"

The same day Unifor National President President Jerry Dias tweeted from his account, "VICTORY! Ont judge rules 4 free, democratic collective bargaining rights. Gov't must not interfere w union."

Ontario Federation of Labour

In a statement entitled: "Court Ruling Against Bill 115 Secures Charter Rights of Every Worker" the Ontario Federation of Labour President Chris Buckley stated: "From the outset, Bill 115 was a cynical strategy to attack the rights of educational workers to woo Conservative voters in two tight by-election races. The plan backfired at the ballot box, toppled a Premier and now it has been soundly defeated in a court of law. This is a vindication for the unions who launched the *Charter* Challenge, the unions who stood by them, and for every worker who hopes for fair treatment under the law."

"The defeat of Bill 115 is a credit to the unions who launched the challenge, but it is also a victory that is shared by the hundreds of thousands of people who stood together against this blatant violation of workers' rights. It is a testament to the importance of solidarity," said Buckley. "Premier Kathleen Wynne has an opportunity to distance herself from the nasty anti-worker politics of her predecessor by making sweeping changes to Ontario's outdated labour laws to improve employment standards, make it easier to join a union and bring balance and fairness to labour relations in this province."

(CBC, Toronto Sun, Hansard)

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