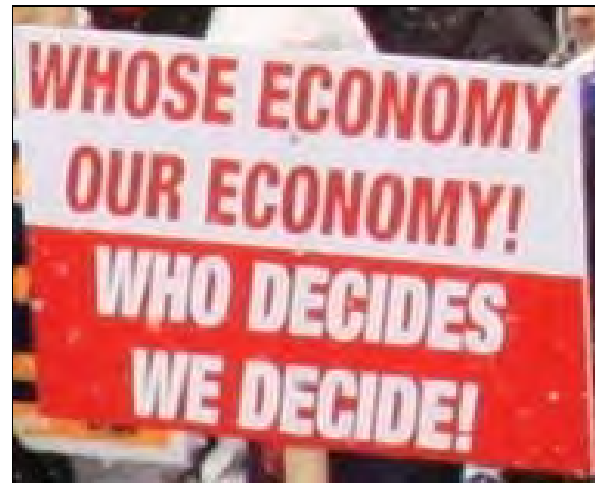


May 26, 2016

Another Ontario Superior Court Ruling Against Steelworkers Without a Say, You Have No Rights

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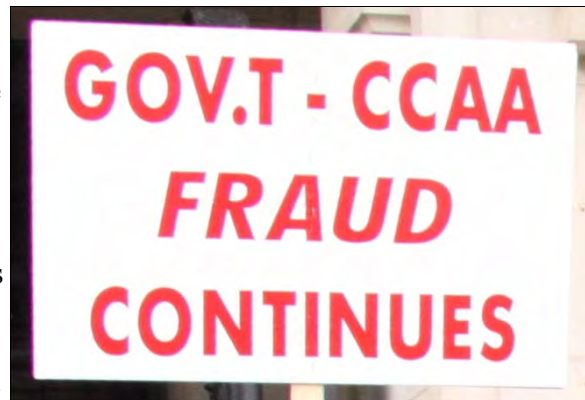
Another Ontario Superior Court Ruling Against Steelworkers

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Without a Say, You Have No Rights

Ontario Superior Court Justice Frank Newbould dealing with the insolvency protection of Essar Steel Algoma ruled against a union motion to have the parent Essar company remain one of the bidders for the company. The union argued that it had not been consulted regarding the effort by those in control of the *Companies' Creditors Arrangement Act* (CCAA) case to exclude Essar as a bidder. As a legal member of the group of participants in the case, the union argued its rights had been violated and the elimination of Essar as a bidder should be reviewed.



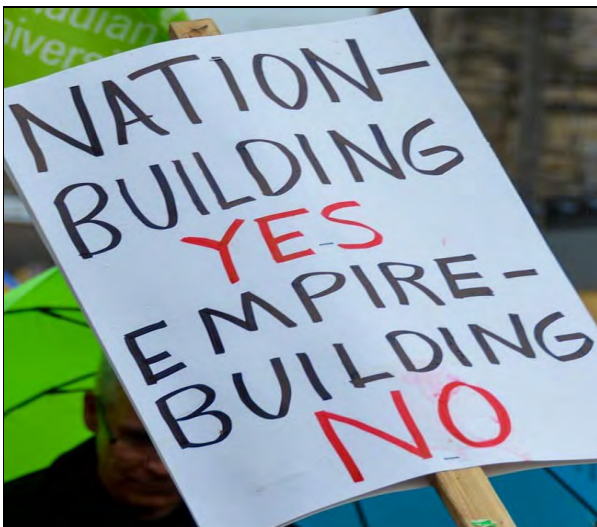
In his decision issued the week of May 16, the judge agreed that the union had the right to be consulted and should have been consulted on the matter. But given the fact that the union has no say in the decision to exclude Essar as a bidder, he dismissed the union's motion as irrelevant.

In effect, the judge is saying that rights can be violated, even rights accorded in law, under circumstances where individuals or collectives have been deemed by those in power as having no say or control. In this sense, rights are privileges for those in control to dole out as they please. According to the dictate of those in control: You have no control, you have no say; therefore, you have no rights. This about sums up the conundrum for the working class in Canada. The rich and their minions within the state machine control the economy. They have rights, which flow from their control. The working class has no control over the economy or say in decision-making; therefore, its rights are privileges to be handed out by those in control when they please.

Rolf Gerstenberger, former President of Local 1005 United Steelworkers at U.S. Steel Canada (Stelco), denounced the court ruling against the union motion on Essar. He noted that the judge said the terms of the proceedings were violated by not consulting with the union, but this did not matter since the union had no say anyway. Rolf said everyone should keep this arbitrariness in mind when assessing the CCAA process and its outcome. Arbitrariness does not favour the people. It favours those who hold the power of great social wealth and control within the economy and state institutions in the medieval fashion of might makes right.

Arbitrariness is an attack on a modern government of laws. CCAA is an extreme form of the arbitrariness within the state machine generally. The working class is under attack from those in control who use the absence of a government of laws to do whatever they want. This absence of a government of laws was seen clearly when the federal government refused to enforce its authority under the *Investment Canada Act* even though U.S. Steel had grossly violated its ICA agreement. The lack of a government of laws serving public right and the public interest means that monopoly right can run amok in a free-for-all or Wild West serving the narrow private interests of those who are dominant.

Rolf said the steel industry is out of the control of those affected as workers, pensioners, local suppliers and other sectors of the economy, and the municipalities and governments that depend on its revenue. Those affected have no control, and no public authority has stepped in to rein in monopoly right, which is out of control.



No one in government or industry wants to look at the steel industry as a whole, he said, where the companies are out of control and no public authority has the guts to restrict monopoly right and assert public right. Instead, we have Justin Trudeau pleading with the monopolies in Japan to invest in Canada because Trudeau says, we are a trading nation. Every nation is a trading nation under the domination of the global monopolies. Calling Canada a trading nation, in the present historical context is an admission that we have no domestic economy that we can rely on. To trade for mutual benefit and development, Canada must first have a domestic economy that is self-reliant, diverse

and free from the control of the global financial oligarchy. Existing as a trading nation in the present international climate means bowing to the control of the global monopolies and becoming

embroiled in their inter-monopoly fights for control and dominance up to and including war.

Canadians are faced with this dilemma that the ruling elite have given up nation-building and thrown in their lot with the U.S. imperialists in a fight to dominate the world as a military and trading empire under the control of the financial oligarchy centred in the United States. The Canadian working class is faced with the task of putting Canada back on the track of nation-building with sovereignty vested in the people. This means uniting and organizing to take on and restrict monopoly right wherever it raises its ugly head.

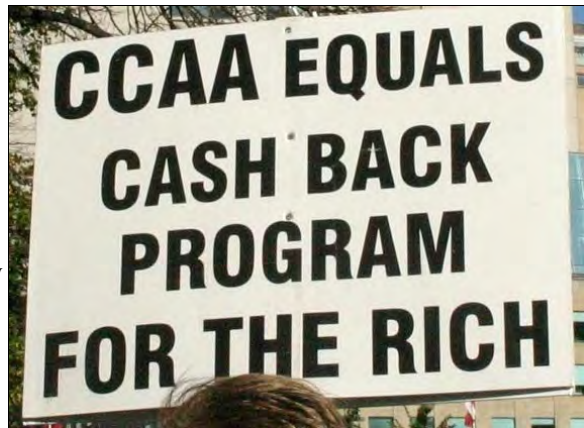
The CCAA proves in practice that rights can only be defended within a situation where the people can exercise control over those matters that affect them. These monopolies and the agents of the state machine have to be deprived of their power to deprive the people of their right to build this nation.



Behind the Backs of the People Affected

The Thursday Meeting of Local 1005 United Steelworkers on May 19, discussed the wheeling and dealing surrounding the CCAA sales process at both Essar Steel Algoma and U.S. Steel Canada (Stelco). It became known that the parent Essar Group had submitted a bid for both Algoma and Stelco. The CCAA court monitor in both cases, Ernst and Young, and others in control of the process rejected the bid without even informing Algoma Local 2251 United Steelworkers.

Local 1005 President Gary Howe pointed out that Ernst and Young, an international accounting monopoly from New York is also the monitor of the Stelco CCAA and was involved in the first Stelco CCAA back in 2004-06. The wheeling and dealing in 2004-06 resulted in a particular grouping of investment funds seizing Stelco and making a big score when they flipped the company to U.S. Steel in 2007.



The rejection of the Essar bid is part of the infighting taking place behind workers' backs to gain control of both Stelco and Algoma for a big score and eliminate pensions benefits as a company responsibility. This has nothing to do with solving the problems of the Canadian steel sector and reveals the extent to which the economy has become a battleground amongst what can be called Social Wealth Controlling Funds under the domination of the global financial oligarchy.

Steelworkers discussed how everything is supposed to be hush-hush within the CCAA with participants signing confidentiality agreements, but details always seem to emerge publicly to favour one group or another. The day after the court ruling against the union's attempt to stop Algoma from disqualifying a "secret bidder" for Algoma Steel, the bidder in question was revealed in the *Globe and Mail* as the Essar Group.

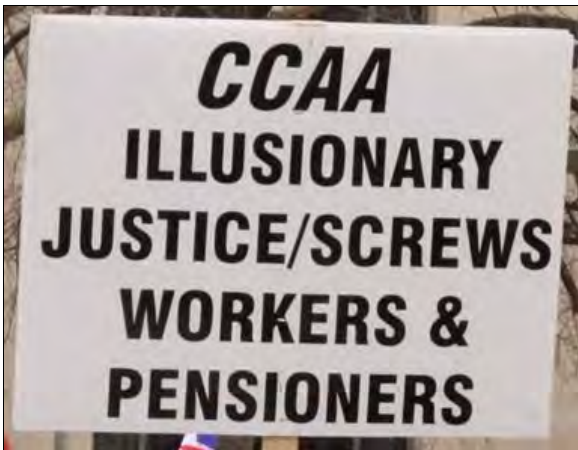
An article in *Soo Today* on May 19 entitled "Steelworkers lose bid to block disqualification of Essar Steel Algoma bidder" said:

"The *Globe and Mail* reported tonight that the disqualified bidder is Essar Steel Algoma's parent company. If that's true, it would mean Essar Group's bid was rejected by Essar Steel Algoma because it wasn't satisfied its parent company had the financial wherewithal to consummate the deal. The number of prospective purchasers of Essar Steel Algoma has been reduced by one.

"The disqualification of the as-yet-unnamed bidder was upheld this week in a decision by Justice Frank Newbould of Ontario's Superior Court of Justice. The number and names of companies interested in acquiring the Sault steelmaker is not known, protected by court-ordered confidentiality directives.

"The *Globe and Mail's* Greg Keenan reported tonight that the disqualified bidder is Essar Steel Algoma's parent company. 'Essar Group, which paid \$1.85-billion to buy Algoma Steel Inc. in 2007, has been ruled out as a potential buyer of the company it put into creditor protection last November,' Keenan said, attributing the information to unnamed sources. 'The era of Essar Steel Algoma Inc. as a part of the business empire controlled by the Ruia brothers of India appears to have come to an end.'

"Any source with direct knowledge of Essar Steel Algoma's sale and investment solicitation process would have violated a strict non-disclosure agreement if (they) revealed names of bidders to the newspaper. A number of previous Keenan pieces citing anonymous sources about Essar Steel Algoma have proven to be correct."



The monitor and others in control of the Algoma CCAA put out statements discrediting the Essar Group's financial capacity to underwrite Algoma. Justice Newbould in charge of the CCAA repeated these allegations as reported in the newspaper *Soo Today*, which wrote in the same piece, "Justice Newbould ruled that he was poorly equipped to second-guess a decision on financial viability made by Essar Steel Algoma in conjunction with 'highly qualified professionals with great experience in restructuring. Under our corporate law, a court should be loath to interfere with the good faith exercise of the business

judgment of directors and officers of a corporation,' the judge said.

"Regarding the union's complaint that it wasn't consulted, Newbould said: 'There is many a slip between the cup and the lip and I do not at all ascribe any bad faith to the actors in this drama. It is far too easy in hindsight to pick things apart and a *Companies' Creditors Arrangement Act* case with all of its hurly-burly complexity is a situation in which one should not engage in hindsight nitpicking of well-intentioned actions of the parties!'"

Justice Newbould prefers to call wheeling and dealing amongst the monopolies "hurly-burly" and even "well-intentioned," which is a very subjective assessment for someone who admits to his incompetence in economic matters. However he may define in soft terms the private self-interest of those in control of the CCAA, he hit the nail on the head when he exposed the CCAA as bowing to those in the financial oligarchy that control the process. Newbould said, "Under our corporate law, a court should be loath to interfere with the good faith exercise of the business judgment of directors and officers of a corporation."

Those in control run the show to their narrow private advantage and not in the public interest, as workers have seen time and time again. Judges invariably fall into line as Stelco steelworkers soon

found out in 2004 with Justice Farley. Time for a change! Those affected by the decisions and their peers should be the ones in control through a public authority that is transparent and open and gains the support and approval of the people through its positive actions in solving problems.



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