

July 14, 2016

Steelworkers Call for Public Inquiry into CCAA Fraud

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On July 14, steelworkers organized in USW Local 1005 in Hamilton, Ontario are holding a public press conference at 3:30 pm at the Local 1005 office, joined by their allies and members of the provincial parliament of Ontario.

The steelworkers are calling for a Public Inquiry on the issue of the Stelco and U.S. Steel Canada Companies' Creditors Arrangement Act (CCA) bankruptcy protection and how this process has deprived them of their rights as well as the pensions and benefits of those who spent their whole lives making steel. *TML Daily* calls on everyone to support the demands of Local 1005 and



inform their peers about the fight of steelworkers which defends the rights of all working people.

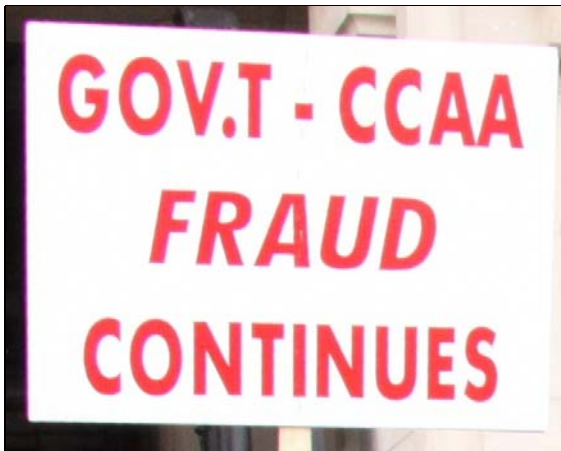
Local 1005 President, Gary Howe said, "Our retirees deserve to live in dignity and stop having to worry whether what they earned will be swindled from them. The best way to ensure that is to start making steel again at our Hamilton Plant."

In this issue, *TML Daily* is discussing the ideological considerations in the battles being fought by Canadian steelworkers and the issues facing the whole working class today. Steelworkers know from their own experience that the mechanisms provided by the courts and governments have not solved any problem in the steel sector or in workers' lives. Far from it, they have permitted at every step global monopoly interests washing their hands of any responsibility. *TML* discusses the significance of this negation of the elemental rights of workers and the need for Canadians to exercise the power to decide on matters which affect their lives.



The Power to Decide

Canadians from all walks of life are expressing growing concern that the country is spiralling out of control. Monopoly right is seizing the power to decide on all fronts. Free trade agreements are handing arbitrary decision-making to the most powerful monopolies to serve their narrow private interests and empire-building in opposition to the broad public interest and nation-building. Quasi-police-state institutions such as the *Companies' Creditors Arrangement Act* (CCAA) possess seemingly unlimited power to circumvent legal arrangements of a government of laws, such as pensions, post-employment benefits, collective agreements, environmental protection and even municipal taxation. The power to decide is being concentrated in fewer hands along with the social wealth the working people produce.



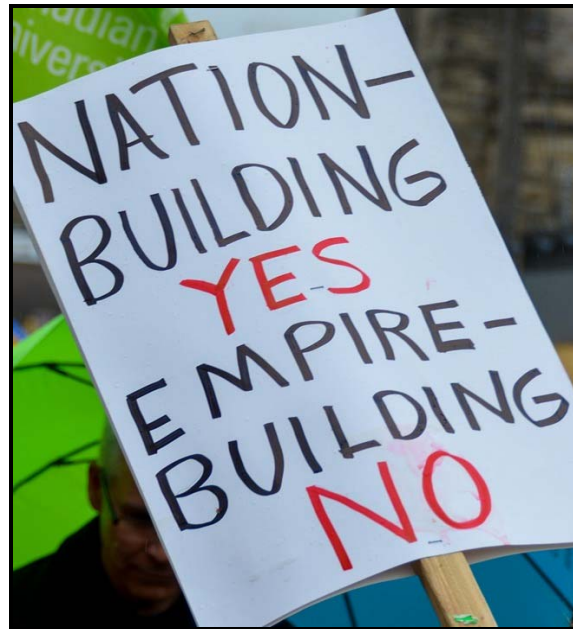
Not the people of the steel communities and specifically not the steelworkers and pensioners directly affected but political officials in their capacity as agents of the state agreed that U.S. Steel from Pittsburgh and Essar Global Fund Ltd registered in the Cayman Islands could march into Canada and make a mess of the steel industry, trample on long-standing contractual agreements with workers, pensioners and the Ontario government, and refuse to abide by the federal law on foreign investment. No state official raised any objections to these monopolies seizing control of the majority of

Canada's basic steelmaking capacity and the power to decide issues that directly affect the well-being and security of the people, economy and environment.

The two monopolies acted in their narrow private interest to serve their ambitions for empire-building not to serve Canada's broad public interest and nation-building. Acquiescing to their monopoly power to decide and to trample on workers' rights, the public interest and local steel economy has made a complete mess of the sector greatly damaging Canada's nation-building. Now, with both monopolies opting for bankruptcy protection within a CCAA fraud, Stelco for the second time and Algoma for the third time, active and retired steelworkers and salaried employees and others in the steel communities including the municipal governments, suppliers, contractors and provincial government are being ordered to pay a heavy price.

Canadians who sold their capacity to work to those in control of the steelworks over the years, in honest and sincere anticipation that those employers would live up to the working arrangements, must not now suffer for the imperialist invasion of monopolies that has turned sour. A pro-social alternative must be found! Canadian working people played no part and exercised no control over the decisions to let these current monopolies take over their steelworks and seize the power to decide. Organized steelworkers in Hamilton raised objections and rightly predicted problems when U.S. Steel seized control in 2007. They proposed a pro-social alternative to the monopoly takeover but their views and right to decide were ignored by those in authority.

Canadian pensions, benefits and employment in the steel sector belong to the actual producers by right. They never agreed to forsake the working arrangements, which include defined-benefit pensions and other post-retirement benefits for life. They showed up for work and produced steel, the social wealth so coveted by those in control. Now to declare the arrangements workers agreed to for the sale of their capacity to work are no longer valid is a massive abuse of power.



The bidders for the remaining assets of both the former Stelco and Algoma Steelworks currently under bankruptcy protection say they will not recognize the rights of retirees to their pensions and benefits or the rights of current steelworkers to peace of mind when it comes to their retirement. This is totally unacceptable and no worker would ever agree to such an attack on themselves and their economy and country.

In a modern state such as Canada, the power to decide is central to life and nation-building. The people must exercise control and hold a veto over those matters that affect their lives. Steelworkers, salaried employees, retirees and people in the steel communities must have the power to decide and to control the steelworks where they work and depend on for their well-being and security and the viability of the steel economy. The working people built the steelworks and have produced the enormous social wealth that has contributed so much to the local and national economy. The denial of their right to decide on the direction of the steelworks and the usurpation of that right by the global monopolies is a fundamental reason for the present crisis. Another direction is both necessary and possible.

Investors, no matter where they are from, must come under the control of Canadians. They must recognize and uphold the rights of the working people and their power to decide. Recognition of rights and the power to decide of the people directly involved is the only path to sorting out the crisis in the steel sector and other sectors for that matter such as the Post Office. An arrangement for public control of both Steelworks and the direction of the Canadian steel economy, including importantly the wholesale sector, the determination of steel prices of production and what steel comes into and leaves the country must be organized with the power to decide in the broad public interest and the power to curtail monopoly right.



Elemental Rights

Elemental rights to decide on working conditions and how much workers should receive in payment for their capacity to work are being eroded to the point where ultimatums and state-ordered dictate have replaced negotiations between large powerful employers and their organized workers. This should not be the case in an era where human rights are universally recognized as essential to the well-being and security of the people, and for equilibrium in the relations amongst the people and in the economy and state.

Soon after U.S. Steel seized control of the former Stelco Steelworks, it began to dictate concessions from the workforce and retirees, and enforce its trampling of rights with brutal lockouts and cutbacks in production. The U.S. monopoly stripped two mills from the Hamilton Works and sold them to a German company called MANA, which in short order dictated savage cuts to wages and working conditions. To enforce its demands, the MANA imperialists locked out over 100 steelworkers in 2013, and have not relented or even agreed to negotiations to this day using mercenary scabs to continue production and privatized police to intimidate workers.

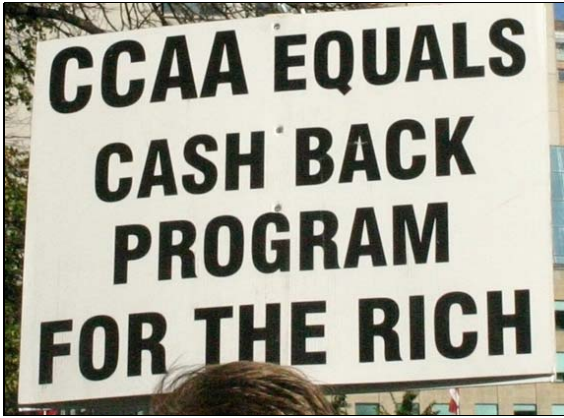


In the drive to privatize even further Canada's postal service for the narrow benefit of the global monopolies, those in control of Canada Post and the federal government are dictating concessions and trampling on the right of postal workers to decide important matters to guarantee equal postal service for all Canadians and to decide their working conditions and what they should receive in exchange in wages and lifetime assurances for selling their capacity to work to the company.

Insolvency protection under the *Companies' Creditors Arrangement Act* (CCAA) has become a weapon of choice for those in control of social wealth to destroy existing agreements with workers and others. Under CCAA, U.S. Steel has stopped paying for the contracted post-employment benefits of retirees, stopped paying municipal taxes and is no longer putting value from steel production into the pension funds. Essar Steel Algoma, while currently under CCAA as well, refuses to put value from production into the pension funds and is violating the agreements with steelworkers on the maintenance of health and safety.

U.S. Steel declares, and the CCAA court agrees, that the proceeds from the sale of the assets of the former Stelco should be given to the U.S. company and taken out of Canada rather than used to pay the amounts owed to the pension funds, other post-employment benefits, local suppliers and contractors, municipal taxes and other creditors. The USS/CCAA dictate poses a serious threat to the elemental rights of Canadians who are owed substantial obligations by U.S. Steel and its owners, which is supposed to be backed by their social property including that in the United States. Also, the USS/CCAA dictate to seize Canadian social wealth poses a serious threat to the viability of U.S. Steel Canada upon its sale, as any new steel enterprise still has to meet the outstanding obligations.

U.S. Steel and the CCAA court say that USS ownership, even though declared insolvent and necessitating a forced sale to clear its obligations, negates the elemental rights of Stelco workers, pensioners and others because the largest obligation by far has become the one to itself through the farce of turning its equity ownership of its social property in Canada into debt to itself in the United States.



Canadians cannot and will not accept such an arrogant and self-serving notion and behaviour. The obligations to the active and retired workers arise from the sale of their capacity to work in return for wages and guarantees of pensions and other post-employment benefits over their lifetime. They form part of an essential relationship between employers and employees. Without recognizing and respecting this essential relationship and the obligations it owes to workers in exchange for their capacity to work, a modern economy and state cannot function with any sense of justice and equilibrium.

U.S. Steel and the CCAA court declare monopoly right trumps workers' rights with USS poised to seize the lion's share of the liquidated assets even though the company is the bankrupt party and its equity, including that in the U.S., should be forfeited to meet its obligations. The autocratic CCAA ruling upholding monopoly right has no place in modern Canada and generates destructive disequilibrium in relations of production and the economy. It reflects a reversion to medieval practices of might makes right where the people possess no right to challenge the royal prerogative and authority of those who hold great wealth and power. The medieval negation of elemental rights of the people has no place in modern Canada and is extremely destructive to both the economy and Canadians' way of life.

***USS/CCAA Dictate Must Not Pass!
Monopoly Right No! Public Right Yes!
Time for a New Pro-Social Direction for the Steel Economy!***

***People Have Rights by Virtue of Being Human.
Workers Have Rights by Virtue of Being the Producers of the Goods and Services
the People and Society Require for Their Existence.
Canadians Need and Want to Live in a Modern State That Recognizes,
Respects and Guarantees Their Rights.***



Breach of Trust

The Canadians do not like living in a world where breach of trust is commonplace and excused because of the power of monopoly right. The global monopolies and their allies in the state have created a situation where words mean nothing, where promises are empty vessels that can be broken at will because of changed or exceptional circumstances, where written promises have no validity, where laws can be ignored or violated, and where legal binding agreements between two social forces can be discarded by the more powerful force simply



because it holds the power to do so under an outrageous combination of the medieval notion of "might makes right" and U.S. pragmatism. For these crimes of breach of trust no remedy or redress appears to exist for the people other than organized resistance to force justice to be done.

U.S. Steel made many promises in preparation to seize Stelco mills in Hamilton and Nanticoke in 2007. Promises were made in writing under the authority of the federal *Investment Canada Act* on levels of employment and production. Promises were made to the provincial government and steelworkers' unions that the pension funds would be regularly funded and made fully solvent by the end of 2015. The U.S. Steel Chief Financial Officer wrote an open letter to the *Hamilton Spectator* and attached her signature swearing for all to see and read that nobody had anything to worry about regarding pensions and other matters because those in control of U.S. Steel were people of good faith and their word could be trusted.

So Canadian state officials at the federal and provincial level took U.S. Steel officials at their word and blessed their signatures and promises with official trust and handed them ownership and control over an important part of the economy. Within less than two years the trust was breached, the promises broken, the signatures sullied, and attack after attack was launched on every aspect of the Canadian steel industry under the control of U.S. Steel including employment and production levels, the productive forces and the rights of steelworkers and pensioners.

And now, those in control of USS, under the sinister cover and fraud of the *Companies' Creditors Arrangement Act*, demand to be rewarded for their breach of trust and other crimes by seizing the money from a liquidated Stelco. Redress for their crimes against Canadians does not reach the lips of officials because monopoly right does not allow redress for its crimes just as no salvation can be expected from the gods of plague. Redress arises from the struggle to deprive monopoly right of its power to deprive the people of their rights.



Public right without redress for crimes against it is no right at all. The absence of redress for crimes against public right is why Canadians generally have no guaranteed pensions and post-employment benefits. The monopolies feel no pressure to have the state guarantee pensions and OPEBs (Other Post-Employment Benefits) for all, because they are allowed to act with impunity in denying their own employees their retirement rights.

At this time of the neo-liberal offensive, even public employees are under duress and struggling mightily to retain their retirement and other rights. Canadians should go all out to support the Canadian Union of Postal Workers and the Public Service Alliance of Canada in their struggle to defend their rights within the relations of production at the workplace.

If U.S. Steel, Essar Steel Algoma and the few other privately-held monopolies, where workers still have certain retirement rights, are allowed to breach their trust on this front then little pressure remains on the ruling imperialist elite to extend the Canada and Quebec Pension Plans and have them become genuine defined-benefit pensions at a Canadian standard of living for all where post-employment benefits are fully guaranteed.

Defined-benefit pensions must be defended wherever they exist for the sake of all Canadians not just for those directly involved. If corporate pensions fall victim to neo-liberal anti-social attacks and breach of trust, no incentive for the ruling imperialist elite remains to improve the general

public pension plan for all. The same is true with OPEBs; without pressure on the companies, no pressure or urgency exists to improve or even retain social programs for all to guarantee the people's rights.

Breach of trust is a violation of a government of laws either explicit or implicit. If agreements are routinely breached then no trust or equilibrium amongst contending social forces can be established. Workers in situations, such as now in the steel, postal and public sectors where breach of trust is being pushed as the norm, have to think deeply about the dilemma they face. The necessity mounts for organized actions with analysis in defence of rights and for redress where rights are violated.

Rights without redress for violations are not rights at all. Disequilibrium in relations of production can be changed through organized struggle for equilibrium in defence of rights to deprive those in the ruling elite of the power to destroy equilibrium. The ruling imperialist elite must face the threat of a working class determined to defend its rights either in equilibrium within the present capitalist system or if deprived of that option going for a radical rupture with the existing relations of production and establishing new ones in conformity with the socialized productive forces with the actual producers, the working people, in control.

Note from a Lawyer on Breach of Trust

TML Daily asked a lawyer for his views on the issue of breach of trust.

A breach of trust occurs when a person in a position of trust commits an act in connection with the performance of his or her duty that is either contrary to the person's duty at law or under a contract, or involves preferring his or her own interests over those of the beneficiary of the trust.

A breach of trust is considered to be a fundamental wrong because it threatens the ability of the ruling class to rely on certain relationships that are necessary for the functioning of the economy and society.

The problem arises often in the situation where someone is the trustee of a fund, such as the executor of an estate. For the proper functioning of the society, it is necessary that those with property can expect that a person in a position of trust will not breach his duty (e.g. by stealing from the trust) or prefer his own interests to those of the beneficiary of the trust (e.g. by taking the money and investing it in a risky business venture in which he has a personal interest). Similarly, it could involve fraudulently convincing people to put money into a person's care (e.g. Ponzi or Madoff).

In criminal law, breach of trust by an employee is treated harshly. For the proper functioning of the economic system, it is necessary that employers must be able to trust their employees not to use their own employment situations to act against their employer's interests (e.g. to steal from their employer) or the interests of their employer's customers. This is such an important requirement within the economic relations in the society that there is a rule of thumb in the criminal courts that anyone who steals from an employer, or from an employer's customers by virtue of their employment position, will always get a jail sentence, no matter how small the actual theft was. A jail sentence is considered a given.

There is also a specific offence of breach of trust in public office, which involves the situation where a person violates a public duty imposed by a law or regulation in order to derive a personal benefit. Again, this is considered to be a very serious offence because it threatens the ability of those with property to expect that people who are entrusted with positions in government will

always act in the interests of the elite and not their own.

With regard to the global monopolies such as U.S. Steel, in legal circles the term trust is understood narrowly. The global monopolies have no duty of trust to anyone but their shareholders (and secured creditors). They are not required to uphold the common good, especially if their interests dictate otherwise. It is true that they break promises with impunity (even to governments) because they have the economic power to do so. However, this is not considered as a breach of trust but rather a shrewd business practice.

With respect to officials of the ruling state, they are theoretically entrusted with a duty to uphold the common good but instead have a long, sordid history of breaking promises with impunity. Individual public officials have been prosecuted for abusing their positions of trust but there is no means of redress when a governing party violates the public trust by breaking its campaign promises (or worse, refuses to enforce laws that provide a modicum of protection for the public interest). We are told that our only recourse is to exercise our democratic right to vote the rascals out and replace them with others who can be trusted, *ad infinitum ad nauseum*. Meanwhile, the new regime is free to carry on in the same way as the old one.

The fact is that there is no **accountability to the public interest** on the part of either the global monopolies or their allies in the state. They can violate the public interest and there is no redress. This points to the necessity for the working class and its allies to take every opportunity to resist monopoly dictate with a view to establishing a political system in which governments are accountable to the people.



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