

March 9, 2017

CCAA Court's Autocratic Dictate

Algoma Steelworkers Pushed to the Brink



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CCAA Court's Autocratic Dictate

Algoma Steelworkers Pushed to the Brink

Steelworkers organized into USW Local 2251 have emphatically denounced the autocratic orders of *Companies' Creditors Arrangement Act* (CCAA) court Justice Frank Newbould. Using the assumed police powers of the CCAA, Newbould unleashed a torrent of dictates on March 6.

Newbould ordered both Local 2251 and the salaried employees' USW Local 2724 from Essar Steel Algoma immediately to stop negotiating collective agreements with their employer under the *Ontario Labour Relations Act*.



Newbould ordered the negotiating committees of the Locals, along with the organization of Algoma Steel retirees, to travel 700 kilometres south from Sault Ste. Marie to Toronto for talks under the police powers of the CCAA. The negotiating committees are to be, in the words of Local 2251, "imprisoned on the whim of a judge" in Toronto for an indefinite period until new collective agreements are imposed.

Newbould issued a gag order prohibiting the negotiating committees from discussing anything of the talks with anyone including their own members. With the aristocratic flourish of a medieval lord, Newbould casually dismissed workers' right to speak declaring, "The mediation is to be held in private without any public pronouncements or discussion of any nature or kind by any person."

Newbould ordered a "process to be followed regarding labour negotiations through mediation to be conducted" outside Ontario labour law without clarifying what the CCAA process is, what the rules of engagement are to be, and whether organized workers can go on strike to defend their rights.

Newbould did not specify with whom the negotiating committees are dealing other than to say "the company and the lenders and noteholders who are the purchasers under the sales and investment solicitation process are to speak with one voice."

The "sales and investment solicitation process" has not yet concluded with a winner declared, nor has any indication been given of when Algoma Steel will exit CCAA. Presumably, using the police powers of the CCAA, those in control want to force anti-worker concessions from steelworkers, salaried employees and retirees to sweeten the pot for the financial oligarchy when they exit CCAA in control of this extremely valuable steel asset in Northern Ontario, which they will probably flip for a big score when the time is right.

Newbould knows that Local 2251 President Da Prat is not well and cannot risk travelling to Toronto, which means the Local's negotiating committee will be split without the in-person experience and guidance of their President.

Newbould ordered the mediation scheduled for March 22 to 31, and "if directed by the mediator shall continue thereafter [and] conclude only after further court orders."

This blatant dictatorship over the working class is unacceptable. Organized workers and their allies can never agree to such abuse of their rights and dignity. The working class and its allies must stand as one in opposition to the open police powers of the CCAA, the financial oligarchy and federal and provincial governments. To push steelworkers to the brink and bring down relations of production to this ignominious level is state-organized



hooliganism.

Workers' Forum denounces with utter contempt the CCAA police powers and abuse of Canada's working class and calls on all Canadians to stand as one in opposition. More than ever the times call out for organized workers to take the stand that *No Means No!* to defend the rights of all.



Statement of USW Local 2251 Negotiating Committee (excerpts)

Local Union 2251 received an update from its legal team regarding a conference that was held before Judge Newbould to discuss the procedures to be followed regarding labour negotiations now underway through mediation conducted by the Honourable Warren Winkler.

While there was a meeting in Toronto between some parties with the Honourable Warren Winkler, Local 2251 was not in attendance.

Local 2251 did not attend for a number of reasons, not the least of which was the fact that we were negotiating under the *Labour Relations Act* with the employer.

The local union was notified at the time that the employer would be seeking a no-board report with a view of imposing terms.



A letter outlining our concerns was sent to the Honourable Warren Winkler by legal counsel for Local 2251.

In that letter, we also advised that we would appreciate communications coming directly from the Honourable Warren Winkler to us.

We were informed by our legal counsel that our concerns were not well received by the Honourable Warren Winkler. To date, Local Union 2251 has never talked to or met with the Honourable Warren Winkler.

Judge Newbould held a conference with a number of legal representatives today, March 6, 2017.

At this conference, the Honourable Warren Winkler and William Kaplan also attended.

The result of the conference was an order by Judge Newbould.

[...]

Local Union 2251 originally objected to the employer taking negotiations into the *Labour Relations Act* regime.

Once the assistant deputy minister Peter Simpson, ordered that the conciliation officer was properly appointed, legal counsel advised us that the Ontario Labour Relations complaint that we had filed would not succeed, and we withdrew it.

As a result, we commenced bargaining with the employer and in fact made progress.

We were then informed that we were to attend mediation in front of the Honourable Warren Winkler.

This meant that we were being dragged unwillingly back into the CCAA process.

We attempted to reach an agreement with the company regarding the cause and effect of the mediation in front of the Honourable Warren Winkler.

Instead, we received the latest order by Judge Newbould.

This order in our opinion is unreasonable and unconstitutional.

The order, in part, orders that the negotiating committee attend the mediation in Toronto. The only exception being Mr. Da Prat who may participate by video conferencing.

This is totally unacceptable due to the fact that the negotiating committee must work as a team.

Further, the committee needs to be able to fully discuss proposals, counter proposals etc.

If the committee is split, it cannot effectively do that, nor can it effectively represent the members.

Further, the order prevents the negotiating committee from discussing anything to do with the mediation with anyone.

This prevents us from keeping our members informed and consulting our members on key developments that the committee traditionally requires their input.

During negotiations or as in this case, a *Companies' Creditors Arrangement Act* mediation, speaking with our members is a fundamental responsibility in representing them.

We have in fact informed and consulted with our members as recently as Feb. 23, 2017.



Also, this order states that we will mediate from Mar. 22 to 31, 2017.

And if the mediator decides, the local will have to negotiate continuously thereafter and can only conclude by a court order on recommendations from the mediator.

These types of autocratic orders have never occurred to our local.

Negotiating committees from time immemorial have been able to speak with their members,

leave the negotiating table if necessary, and certainly not be imprisoned in Toronto on the whim of a judge.

We believe that this order is unreasonable, and designed to prejudice Local Union 2251 and its members.

We have directed our legal counsel to file leave to appeal. We believe that this order is unlawful.



Hamilton Steelworkers' Picket Against CCAA Legalized Theft



On March 2, USW Local 1005 and allies held a picket outside of Hamilton East-Stoney Creek MP Bob Bratina's office to raise public awareness of the role of the *Companies' Creditors Arrangement Act* (CCAA) to rob workers of what is theirs by right. Representatives of Unifor Local 504, CUPE Local 6167, the International Association of Machinists and Aerospace Workers Local 2323, OSSTF Hamilton District 21, and Steelworkers Organization of Active Retirees (SOAR) joined USW Local 1005 with their flags held high and placards denouncing attacks on workers' pensions.

Gary Howe, President of USW Local 1005, told the crowd that it was more than two and a half years that they had been under CCAA which is legalized theft. The CCAA takes away from workers what they have earned through many hard years of work and is theirs by right, he said.

Under the last CCAA, hedge funds walked away with over \$1.1 billion and the same thing is being set up now, he said. The CCAA is being used to take away benefits from seniors, deny workers their human rights, and to attack active workers' jobs. Local 1005 stands committed to Jobs, Pensions and Benefits, Gary concluded.

Anthony Marco, President of the Hamilton and District Labour Council, said labour has always stood with Local 1005. He said labour understands that the attacks against Local 1005 are aimed to have a domino effect where not only private sector workers are presented with the same attacks but the public sector as well. Not only do workers have to fight their employers now, but they have to fight the government as well, he said. Politicians talk about the middle class but the middle class is finished. We are all working class, he said to resounding applause. Solidarity is the priority, he said.



Tim Huxley, representing the Stelco salaried workers, said both the active and retired salaried workers stand with Local 1005. They are facing the same situation as those in 1005. They lost their benefits, like 1005, and they are not in agreement with the way the company is being restructured. He assured all the members of 1005 that they are not alone and that it was critical to stay united.

Bill Mahoney, 1005's resident poet, gave a rousing recitation of his poem, U.S. Steal, which also received vigorous applause.

MP Bob Bratina gave a short presentation saying the local MPs are working quietly behind the scenes to get a commitment from the federal Liberal government that it will take the necessary steps to ensure Stelco is a viable, sustainable productive operation once it emerges from CCAA.





Struggle for the Dignity and Rights of the Unemployed
A Canadian Standard of Living for
All Unemployed Workers!

- Pierre Chénier -

The Federal Minister of Families, Children and Social Development Jean-Yves Duclos, who currently holds the employment insurance file, rejects the demand of the defence organizations of the unemployed to end the "black hole" of loss of EI benefits before returning to work. Duclos says the modest reform to abolish the black hole will not be in the March 22 Trudeau budget.

The defence organizations have put forward the demand for a 32-week period of guaranteed EI benefits for all seasonal workers in Canada. This would allow workers to avoid the period of the black hole in which their employment insurance benefits have been terminated and they have not yet resumed their seasonal work. The organizations have highlighted the well-documented human tragedies and anxiety workers experience who sink into deep poverty and are often forced into exile.

The pretext for refusing to make this one reform is that the employment insurance system needs a major overhaul. The very fact that an emergency measure to alleviate this grievous situation of the

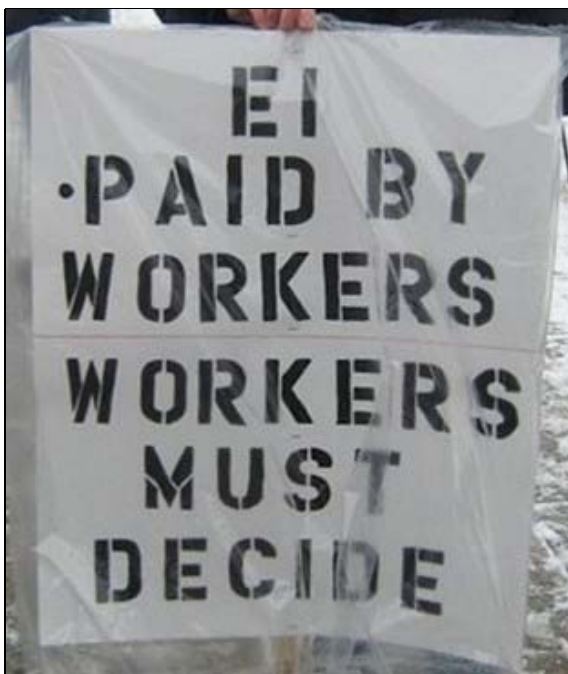


Seasonal workers in Perce demand an end to
the "black hole" of lost EI benefits,
April 8, 2013

unemployed will not be adopted shows clearly that a Liberal "in-depth reform" will not be favourable to workers and their communities.

Minister Duclos, who has written on employment insurance, is known as a "specialist on income security." His writings include a long article in English entitled, "A Better Income Security System for All Canadians." The essay was published in 2007 in a multi-authored work called, "A Canadian Priorities Agenda: Policy Choices to Improve Economic and Social Well-Being." Duclos in his article argues for replacing employment insurance, social assistance and other social programs with an "income security system" that pays "careful attention... to incentives and their effects on behaviour, in both the short and long term." One aspect of this, says Duclos, is "creating a basic income (BI) transfer... whose net value would decline with rising levels of income" which would "substitute for several other benefits such as social assistance, disability, parental and sickness benefits."

On employment insurance, Duclos writes that the EI system "has grown into a multipurpose, burdensome social program that is probably doing more harm than good." He says the EI program discourages workers from finding employment and has negative effects on the long-term participation of workers in the labour market. He recommends that EI premiums and the level of benefits be based on experience ratings to calibrate contribution rates and benefit levels. Firms that lay off fewer workers pay lower premiums and workers who make fewer and less frequent claims receive higher benefits. This is what he calls a "simplified" and "fair" system.



At this time, neo-liberal think-tanks like the CD Howe Institute (at which Minister Duclos was Fellow-in-Residence for years) are hammering the need to reform the EI system to make it even more aligned to the needs of the so-called labour market. According to their self-serving arguments, this means ending a situation that "subsidizes" workers who refuse to move to where employers want them according to where investments are going at a particular time.

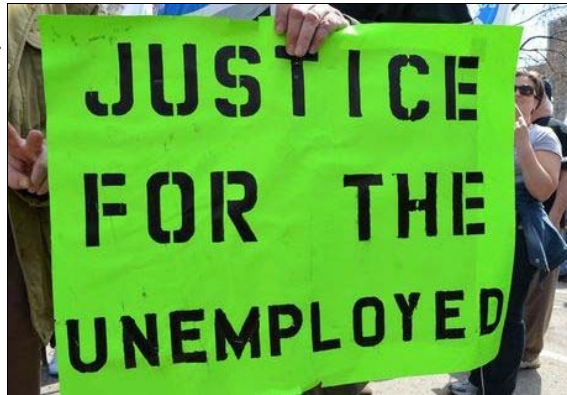
Although the Minister did not spell out exactly what his in-depth reforms may be, he will of course be holding the now infamous Trudeau-type consultations where the government defines all the parameters beforehand. Discussion is directed towards predetermined anti-social and anti-worker programs, which provide no solution to the difficulties workers face. Liberals subordinate the

employment insurance system to the demand of big business that workers be available when and where the monopolies want them and to discard workers without concern for their well-being when they are not needed, which they call a "labour market."

Eliminating any problems with moving workers around from bust regions to boom regions and then back again when boom turns to bust is a concern of the ruling elite. This requires making life miserable and even impossible for workers to remain in their home regions when unemployed and to accept new jobs with substandard wages and living conditions. This is called correcting any deterrents to finding a job that is allegedly present in the current system. In doing so, the behaviour of the unemployed becomes the determinant for benefits not the anti-worker social and economic conditions.

Prime Minister Trudeau's updated mandate letter sent to Duclos in February 2017, states with respect to improving the employment insurance system that it must be "better aligned with the realities of today's labour market and serve workers and employers." This is the common refrain that workers, as commodities or things, should submit to the vicissitudes of the "free market" in selling their capacity to work because as all liberals know well, a free and competitive market for human commodities and other things is best.

Workers firmly reject that the reference point of the EI system should be the state-organized "labour market" marked by anarchy and chaos imposed by the domination of the economy by global private oligopolies. This labour market is a source of division, instability and anxiety among workers. It forms part of the overall social conditions to keep the working class as an exploited oppressed class without an organized defence of its rights and Canadian living and working conditions. The current demand that the labour market be the criterion on which a social program is based eliminates the very concept of a social program ensuring and guaranteeing the rights of all.



"In-depth reform" of a system, which has a permanent army of unemployed at the beck and call of big business must include emergency measures to alleviate the plight of workers, including the most vulnerable among them, and to provide all unemployed workers with a Canadian standard of living at all times. A serious reform would address the general problem of eliminating unemployment as an anti-social scourge once and for all through scientific planning of the socialized economy to serve the people and nation-building.[1]

Note

1. Social relations between the working class and those who buy its capacity to work - K.C. Adams

The Canadian economy is comprised of a system of relations of production where workers sell their capacity to work and those who own and control the socialized forces of production buy their capacity to work. For these relations of production to continue a certain equilibrium must exist.

For the working class, selling its capacity to work within the socialized economy is the only way to gain a Canadian standard of living. Workers recognize this reality and are prepared to sell their capacity to work to reproduce themselves as the productive class and to sustain the economy and society.

The sale of workers' capacity to work has both a particular and general quality. The particular quality exists during workers' working age and their engagement with various workplaces. The general quality exists throughout their lives as the sale of the capacity to work of the entire working class to the members of the social class and state that purchase it in exchange for a Canadian standard of living from birth to passing away under all conditions.

Those who buy workers' capacity to work must recognize that workers need a livelihood from birth to passing away and during all periods in between whether they are employed or not for whatever reason. Otherwise, the deal is off. The working class accepts equilibrium in the present relations of production if those who buy workers' capacity to work accept that the purchase is for the life of workers from birth to passing away in sickness, injury or in good health at a Canadian standard of living acceptable to the working class. Otherwise the arrangement is unacceptable and

the working class will bring in new socialized relations of production in conformity with the modern socialized economy and its forces of industrial mass production.



Interview

Quebec Unemployed Defence Organizations Launch Campaign -- Abolish the "Black Hole"

"The official unemployment rate does not reflect the reality we live in."

- Line Sirois -

The National Council of the Unemployed, in collaboration with Action-Chômage Haute-Côte-Nord and Action-Chômage Movement of Charlevoix held a press conference in Baie-Comeau on Quebec's North Shore on February 21, to launch a campaign to eliminate the "black hole." The defence organizations of the unemployed call on the federal government to find a solution to this human tragedy of unemployment without support.

The black hole is the period between the end of unemployed workers' employment insurance benefits (EI) and when they return to work. Estimates reveal that more than 16,000 seasonal workers in Canada experience this phenomenon with 40 per cent living in Quebec and 27 per cent in the Atlantic Provinces. The black hole expresses the abandonment of the unemployed to their lot by the rich and their governments who refuse to recognize the reality that unemployed workers have to live.



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The ruling elite refuse to accept social responsibility for an economic system that deprives millions of workers of employment. They consequently refuse to compensate adequately the unemployed at a Canadian standard of living. The difficult situation of the unemployed has been aggravated by measures taken by successive governments. Today, less than 40 per cent of the unemployed are eligible for EI and those who are confront vexatious measures that impose increasingly unsustainable living conditions on them. Among the hardest hit workers are those who live in remote areas who have lost the few remaining manufacturing jobs in the region and work in seasonal industries such as fisheries, tourism or silviculture.

Workers' Forum discussed the campaign to abolish the abolition of the black hole with Line Sirois, President of Action-Chômage of the Haute-Côte-Nord.

Workers' Forum: Can you first explain how on the Upper North Shore you have gone from the requirement to accumulate 420 hours of work to obtain 32 weeks of EI benefits to the requirement to work 560 hours to obtain only 18 weeks of benefits?

Line Sirois: This was done in 2000, with the redistricting of the EI economic regions, which they are obliged to review every five years. In 2000, they decided to take the North Shore region and

divide it in two. They have twinned the Lower North Shore with Gaspésie. The rest of the North Shore has been twinned with the Lower St. Lawrence and other regions with a very different rate of unemployment. As a result, our official unemployment rate in the Upper North Shore dropped all of a sudden and we were left with an obligation to work 560 hours to be eligible for EI from the previous 420 hours.

The calculation for EI eligibility is based on the official unemployment rate of the EI economic region. The lower the official unemployment rate for the region, the more hours of work you have to accumulate to qualify for benefits and the fewer weeks you can receive benefits. In Quebec City, they are demanding 700 hours and give 14 weeks of employment insurance benefits. Not one region is similar in Canada. It is not fair. Nowhere is the calculation based on the actual unemployment rate in the region.



The official unemployment rate does not reflect the reality we are experiencing. For example, the greater the number of people able to work who leave the region, the lower the work force, which lowers the official unemployment rate. This penalizes those who remain.

With us, instead of taking the Côte-Nord region and the Nord-du-Québec region together as we used to do, they changed the names and redrew the regions, which has penalized us a lot. To add a week of benefits in our region, you have to work two weeks. This means that for us to receive 32 weeks of employment insurance, which is our demand for all seasonal workers in Canada, we would have to work 1400 hours. This is impossible in the area where we live. They have imposed an impossible figure.

People took to the streets in 2000, blocked roads, and organized a lot of actions, which resulted in the government taking alternate but always temporary measures. In 2012, with the Harper reform, all the measures that had been put in place were removed, including the addition of five additional weeks of benefits in designated areas including ours.



"Open Season on the unemployed"

A major impact of this reform is the exodus that followed. We are not just talking about young people, but 40 to 50 year olds who have sold their homes and have left the region. Many women have left their seasonal work to work further north as maids.

We were also hit hard by the forestry crisis on the North Shore. We have not recovered. The Kruger Company closed its doors. We are about 12,000 people on the Upper North Shore and we saw the closure of two sawmills that provided employment for our people. A third sawmill also closed a little further away. Forestry employment, which was permanent, became largely seasonal. This hurt the

North Shore badly. The problem of the black hole was therefore amplified creating many human tragedies.

WF: What are the demands the campaign has put forward and announced?

LS: We are asking for more weeks of benefits for seasonal workers. We want all seasonal workers to be given the 32 weeks of benefits they are supposed to receive. They are entitled to them. This demand goes for wherever there is a seasonal industry in Canada, regardless of the rate of unemployment. We are going to take this campaign to the people, raise awareness and mobilize people.

We also have a demand for sickness benefits coupled with employment insurance. When we went to meet with the decision-makers in Ottawa, we asked for the removal of the black hole and the 15-week limit for sickness benefits. These two problems are inadmissible things.

Fifteen weeks of sickness benefits are covered under the EI program. If a worker qualifies for EI and has accumulated 600 hours of work and falls ill, they can receive employment insurance at the rate of 55 per cent of their average salary. This universal coverage is the same across Canada, but we know very well that when people have serious illnesses like cancer 15 weeks of benefits is not enough. The human drama continues after the 15 weeks, so what do we do? We are not able to return to work.

We expect changes on sickness coverage in the next budget, but on the issue of the black hole, the Minister said he wants to do an in-depth reform, so it will not happen in the next budget. We have other demands such as an insurance fund for the self-employed. But the human tragedies arising from lack of sickness coverage and the black hole are our immediate concern.



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