

BULLETIN

## Unions continue legal fight against provincial government

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**n the aftermath** of a legislative onslaught by the Gordon Campbell government, described in a recent Globe and Mail national editorial as "legislative vandalism," HSA's legal department has been working on many fronts to counter the government's agenda.

Several labour relations matters are currently before the Labour Relations Board, including questions about successorship rights and seniority issues.

While much of the work is focussing on members working in the health care sector, an important application was made to the Supreme Court of BC May 28 related to the employment rights of members working in the community social services sector.

The unions are seeking to have Bill 29 deemed unconstitutional on the basis that it contravenes the Canadian Charter of Rights and Freedoms. We are seeking to restore members' contract rights as they existed before Bill 29 ripped up and gutted our contracts.

We are arguing that Bill 29 is unconstitutional on the basis that it violates Section 2(d) - Freedom of Association, by targeting unionized social service workers while leaving intact contracts for non-union employees like CEOs and managers.

Specifically, Bill 29 voids rights held by unionized employees under collective agreements, the Successorship Accord, the Parity Accord, the Joint Benefit Trust Accord and the contract between the Community Social Service Employers' Association and the plaintiffs regarding new certifications. Non-union employees suffer no such loss of present or future rights. The legislation has the effect of facilitating de-unionization of the community social services sector by eliminating successorship obligations and eliminating employment security rights.

We also argue that the vast majority of unionized workers in community social services are women who provide client care. And for that reason, we contend that Bill 29 violates equality rights guaranteed under Section 15 of the Charter by disproportionately affecting women. The Act deprives unionized employees in the sector of the ability to enforce and rely on their duly negotiated contracts. By facilitating deunionization, it deprives workers of the right to organize and receive effective representation.

In addition to the constitutional arguments, we will argue that the actions of the government in breaching their obligations under the Accords and interfering with the collective agreements constitutes an unjustified interference with the lawful rights of the plaintiffs. Because it is the primary funder of community social

services, we believe government has enriched itself through its unlawful actions.

Finally, the unions say Bill 29 is a wrongful expropriation of workers' rights. The legislation discriminates against workers by attempting to deny them the right to seek compensation for the expropriation of fundamental employment rights. This is contrary to the practise of the government which invariably provides compensation to other parties for expropriation of commercial rights such as power, forestry or mining rights.



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