

HEARTBREAKING AND HIDDEN

THE LOCKOUT OFFENSIVE BY EMPLOYERS



While “greedy” workers on strike are often blamed by the media for labour disruptions, statistics expose the aggressive use of lockouts by Canadian employers.

THE FAMOUS CANADIAN-BORN ECONOMIST John Kenneth Galbraith once concluded “If it is not counted, it tends not to be noticed.” This is certainly true for lockouts. Surprisingly, the data on work stoppages in Canada are some of the best in the world. And so, with some digging, it is possible to expose the truths about lockouts: while “greedy” workers on strike are often blamed by the media for labour disruptions, statistics expose the increasingly aggressive use of lockouts by Canadian employers. Employment and Social Development Canada started collecting information on lockouts in 1976. From that year through 2015, it recorded 2,141 lockouts. These lockouts represented 12.6 per cent of all work stoppages, involved almost 7.3 per cent of those workers engaged in stoppages, and represented 24.6 per cent of work days lost.¹

Traditionally a lockout, whereby an employer temporarily closes their business to try to compel employees to accept certain conditions, is understood as a defensive response to worker militancy. More and more, though, employers are using lockouts to enforce concessions and weaken unions. Lockouts sabotage the functioning of the union-management relationship, and they undermine standard and secure jobs in favour of more precariousness. Lockouts are also sometimes used to shift production from one

plant or country to another, as well as to close unionized plants.

The majority of lockouts are in the private sector (87 per cent between 1976 and 2015). However, in the public sector, employers have now adopted lockout strategies in nursing homes in the care sector, orchestras in the arts sector, and universities in the education sector, to name just a few.

Between 1960 and 2015, there were over 25,000 work stoppages in Canada, involving more than 14.5 million workers. Almost 900,000 working days were lost. But from 2005 to 2015, the balance of strikes and lockouts began shifting, with more workdays and workers involved in lockouts rather than strikes. And, guess what: lockouts tend to be longer than strikes.

LOCKOUTS IN QUÉBEC

In 2013, there were 58 lockouts across Canada. Of those, 35 were at car dealerships in Québec. The workers — mechanics, service advisors, car washers and parts persons — were represented by the Syndicat Démocratique des Employés de Garage du Saguenay-Lac-Saint-Jean (SDEG-CSD). The lockouts, which began in March 2013 and were settled only by special legislation in January 2016, constituted the longest

By Linda Briskin

SELECTED PRIVATE-SECTOR LOCKOUTS LONGER THAN 500 WORKDAYS

ALLSCO BUILDING PRODUCTS; NB **United Food and Commercial Workers Canada** **(UFCW Canada)**

February 1996–1999

► **40 workers/511 workdays**

A first collective agreement was imposed by the New Brunswick Labour Relations Board.

ENTERPRISE FAWCETT LTD; NB **Glass, Molders, Pottery, Plastics and Allied** **Workers International Union (GMPIU)**

September 2003–January 2012

► **37 workers/2114 workdays**

The firm finally closed.

GRANT FOREST PRODUCTS; TIMMINS, ON **Communications, Energy and Paperworkers** **Union of Canada (CEP)**

September 2006–March 2011

► **110 workers/1155 workdays**

An agreement was finally reached.

AU ROI DU COQ ROTI INC.; QC **Fédération du commerce (CSN)**

July 2008–January 2012

► **39 workers/895 workdays**

An agreement was finally reached.

LE JOURNAL DE MONTRÉAL; QC **Fédération nationale des communications (FSSS)**

January 2009–April 2011

► **250 workers/567 workdays**

An agreement was finally reached.

MANA MILLS; HAMILTON, ON **United Steelworkers (USW) Local 1005**

► **118 workers have been locked out since June 2013.**

labour dispute in Québec's history. Despite some strike pay, the accumulated debt totaled \$6.1 million, the equivalent of about \$25,000 per worker!²

Management had tried to impose a new contract that would limit hours of work, create a new part-time class of worker and incorporate a clause that would allow the employer to hire non-union workers.³ The final agreement included significant wage increases and a work schedule which involves alternating a working week of 40 hours over five days with a week of 32 hours over four days, an average of 36 hours per week. Georges Bouchard, president of the union commented: "What happens here will also happen elsewhere in Québec. We serve as a test run for employers, eager to fill their pockets by sabotaging working conditions and causing job losses."⁴

Since 1977, Québec has not allowed the use of replacement workers during stoppages. It might be

expected that anti-scab legislation would discourage employers from invoking lockouts, since they are unable to hire replacement workers. However, Québec has the highest number of lockouts of any province, the most work days lost to lockouts, and the most workers involved in lockouts. In fact, 60 per cent of work days lost to lockouts were in Québec and almost 47 per cent of workers involved in lockouts were from that single province. A disproportionate number of Québec lockouts occurred during the negotiation of a first agreement and resulted in firm closures. Of the 1,322 Québec lockouts, 548 (41 per cent) were ended by special legislation.

LOCKOUTS IN THE PUBLIC SECTOR

Perhaps counter-intuitively, lockouts occur not only in the private sector but also in the public sector. From 1976 to 2015, almost 13 per cent of all lockouts happened in the public sector (a total of 270). In fact, 31 per cent of all workers (232,347) involved in lockouts were in the public sector.

The two most significant public-sector lockouts in Canada between 1976 and 2015 were the following: In 1980, 75,500 education workers from various unions in Québec were locked out from January 25 to February 25. Workers "returned to work," which indicates that no agreement was reached but the lockout was suspended. In 2011, 48,000 postal workers were locked out from June 14 to June 27. They were legislated back to work.

Within that 39-year span, the 270 lockouts in the public sector were largely clustered in three industries: Public Administration (78), Educational Services (65), and Health Care and Social Assistance (60).

Public Administration

Of the 78 public-sector lockouts in public administration, 43 were in Québec.

Educational Services

Of the 65 public-sector lockouts in Educational Services, 21 involved lockouts of teachers in Ontario.

Health Care and Social Assistance

Of the 60 public-sector lockouts in health care and social assistance, 54 involved fewer than 100 workers. [Three examples of public-sector lockouts in health care involving more than 175 workers can be found in the sidebar *Selected Lockouts in Health Care and Social Assistance Involving More Than 175 Workers*.]

LOCKOUTS BY PRIVATE COMPANIES OPERATING IN LONG-TERM CARE

A cluster of lockouts in the continuing care industry in Alberta is instructive. Monterey Place is a seniors' home owned by Triple A Living Communities in Calgary and organized by the Alberta Union of Provincial Employees (AUPE). The lockout began on June 26, 2012, and ended on April 5, 2013. The 91 workers



More and more, employers are using lockouts to enforce concessions and weaken unions.

were locked out for 194 workdays before an agreement was finally reached.

The two sides began bargaining in late May 2011. Central to the dispute were wages below industry standard. AUPE pointed out that "Licensed Practical Nurses are paid 26 per cent less, while Health Care Aides are 35 per cent below standard. Support services workers, like cooks and laundry staff, are paid as much as 38 per cent below standard."

AUPE Vice-President Karen Weiers commented: "What's particularly outrageous is that the owners, Triple A Living Communities, receive government funding to pay nursing staff at rates equal to what Alberta Health Services pays. Instead, they pay lower wages and keep the difference. This corporation is improving its bottom line on the backs of its hard-working staff."⁵

The new contract included an increase in hourly rates of up to 44 per cent for health-care aides, up to 40 per cent for LPNs, and as much as 20 per cent for other support staff.

Aspen Ridge, a care facility in Red Deer (Alberta) organized by AUPE, is owned and operated by Symphony Senior, a private, for-profit operator from Ontario. The staff of the seniors' home joined AUPE in March 2011 and had been trying to negotiate a first contract for eighteen months. A strike was called on January 28, 2013, to which the employer responded with an immediate lockout. Replacement workers were used during the conflict. The 130 employees were locked out until February 4 when an agreement was reached with substantial increases including an 18.4 per cent wage increase for licensed practical nurses, a 38.3 per cent increase for health care aides, and a 17.2 to 18.2 per cent increase for support workers. The union indicated that these increases brought wages in line with industry standards.⁶

During the Aspen Ridge conflict, the employer demanded the right to "remove a worker without cause," what AUPE President Guy Smith characterized as "a CEO's demand to roll back the most basic of labour rights by 100 years.

"This is what happens when you turn health care into an industry. This is what happens when long-term care becomes part of a Bay Street real estate investment portfolio ... It's a fundamental principle that in unionized workplaces, employees accused of wrong-doing get the labour equivalent of their day in court. In all my life I never imagined we would be fighting to defend that right in the 21st century."⁷

The demand for termination without cause was not included in the final settlement.

As the lockout unfolded, it also became clear that Symphony Senior had relied on low-waged, non-unionized workers to make its profit on the beds funded by Alberta Health Services (AHS). During this conflict, Symphony announced it would cancel its funding contract with AHS for 49 beds and convert the beds to private spaces. CEO Lisa Brush indicated that "AUPE's push for wage increases means the AHS contract no longer makes financial sense."⁸

At both Monterey Place and Aspen Ridge, the facilities are operated by private companies using public funds, and in both cases, workers were paid significantly less than for similar jobs in the public sector. The workers at both facilities were predominantly immigrant women. Both lockouts were characterized by considerable picket-line violence. For example, in the Monterey lockout, AUPE reported that picketers were struck by replacement workers on four separate

SELECTED LOCKOUTS IN HEALTH CARE AND SOCIAL ASSISTANCE INVOLVING MORE THAN 175 WORKERS*

PAVILLON ST JOSEPH; QC Fédération des affaires sociales

April 1996–February 1997

► **199 workers/199 workdays**

Special legislation ended the lockout.

CONGRÉGATION DES SOEURS SAINTS NOMS DE JÉSUS ET DE MARIE; QC Fédération de la santé et des services sociaux (FSSS)

January 1998–June 1999

► **180 workers/353 workdays**

An agreement was finally reached.

COMMUNITY LIVING ALGOMA; SAULT ST MARIE, ON Canadian Union of Public Employees (CUPE)

April 2003–May 2003

► **320 workers/16 workdays**

An agreement was finally reached.

* There are a tremendous number of lockouts in this 'industry;' however, most of them involve very small groups of workers. The significance of these lockouts is the number of workers involved. – LB



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occasions, and that security guards assaulted two male employees of AUPE.⁹ The guards face two charges each of assault. At the time of writing, the case is still before the courts.¹⁰

Unpacking the Stories of Some Canadian Lockouts

LOCKOUTS AND ANTI-UNIONISM

Lockouts are a vehicle for what labour historian Gary Chaison calls "ultra-concession bargaining." Unlike concession bargaining which includes wage freezes and cuts, two-tiered wage systems, the duration of collective bargaining agreements, health care benefits, pensions, and work rules, an additional motive of ultra-concession bargaining is "to weaken and displace unions".¹¹

Caterpillar (2012)

The 2012 lockout in London, Ontario, at Electro-Motive Canada (EMC), owned by the American heavy-equipment giant Caterpillar Inc., was shaped by the ultra-concession bargaining of a multinational corporation intent on breaking unions.

Despite EMC being profitable, and the federal government giving Caterpillar tax breaks to purchase the company in 2010, in 2011 the company demanded a 55 per cent wage cut, elimination of the pension

plan, and a 50 per cent reduction in benefits. Ninety-seven per cent of the 465 members of the Canadian Auto Workers (CAW) voted on December 30 for strike action. On January 1, 2012, before they could take any strike action, the workers were locked out. On February 1, the plant was closed. Production was likely moved to Indiana, which had offered lucrative incentives. "The London plant closing is not an isolated event. It is part of a coordinated attack across North America on unions and wages."¹² Rod Woof, a former Electro-Motive Diesel (EMD) worker who, along with more than 600 others, lost his job when the plant closed, said at the time: "Things are pretty dire right now. I am not working. I have been doing odd jobs on the side, but that's about it... I am scraping by, but I'd rather do this than make \$15 an hour for Caterpillar ... I never, at any time, thought we should have taken the deal."¹³

LOCKOUTS, CASUALIZATION AND PRECARIOUS WORK

Lockouts are an employer strategy for casualizing a unionized workforce and increasing the precarity of work. In fact, where casualization of the labour force is already widespread, the number of lockouts has decreased. For example, hundreds of lockouts occurred in Spain in the 1970s. Labour law professor Wilfredo Sanguinetti Raymond claims that the deregulation of work which fostered a massive use of

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Locals 506 & 183
Ontario Sheet Metal Workers and Roofers Conference



part-time and temporary contracts has made lockouts unnecessary.¹⁴

CBC (2005)

In July 2005, after 15 months of unsuccessful negotiations, members of the Canadian Media Guild (CMG) voted 87.3 per cent in favour of giving their bargaining team a strike mandate. The workers never exercised their right to strike, since the CBC locked out 5,500 employees on August 15, 2005. The lockout ended on October 3, 2005.

Both sides of the dispute agreed that the lockout was primarily about contract work. In the final settlement, ratified by 88 per cent of union members, management agreed to cap the number of fixed-term contract workers at 9.5 per cent of the number of permanent workers.¹⁵

This offensive lockout was initiated by management with the express purpose of casualizing a unionized workforce. Arnold Amber, president of the guild's CBC Branch Executive Council commented: "This is definitely a management lockout that didn't have to happen ... In six and a half years, there have been five work stoppages involving four different unions, the last three caused by management-imposed lockouts. The Canadian Media Guild's estimate is that more than 250,000 person-days have been lost in the disputes."¹⁶

Telus (2005)

The 2005 lockout of 12,500 Telus workers in British Columbia and Alberta also highlights employer

aggression. Telus is a leading national telecommunications company in Canada with \$10.3 billion in annual revenue. Following four and half years of failed contract talks, familiar themes emerged during the lockout: increasing precarity, intimidation and refusal to bargain; imposition of the terms of the collective agreement; the hiring of professional strike breakers (via the AFI International Group)¹⁷; and the contracting out of work to call centres in India and the Philippines in order to reduce the unionized workforce.

SELECTED LOCKOUTS LONGER THAN 100 WORKDAYS IN 2014 & 2015

GROUP JS INTERNATIONAL; QC Service Employees International Union (SEIU)

March 2014–June 2015

► 6 workers/383 workdays

An agreement was reached.

EGG FILMS INC; NS International Alliance of Theatrical Stage Employees, Moving Picture Technicians, Artists and Allied Crafts (IATSE)

March 2015–November 2015

► 9 workers/169 workdays

The firm finally closed.

SUPPORTS FOR ARTSPACE INDEPENDENT LIVING; AB (public sector) Alberta Union of Provincial Employees (AUPE)

May 2014–December 2014

► 30 workers/210 workdays

An agreement was reached.

NANAIMO GOLF CLUB; BC UNITE HERE

April 2015–April 2016

► 24 workers/220 workdays

An agreement was reached through binding arbitration.

BC AUTOMOBILE ASSOCIATION; BC The Canadian Office and Professional Employees Union (COPE)

June 2015–December 2015

► 70 workers/197 workdays

An agreement was reached.

COVENTRY CONNECTIONS; ON Unifor

August 2015–December 2015

► 240 workers/126 workdays

An agreement was reached.

LE JOURNAL DE MONTRÉAL; QC Unifor

September 2015–January 2016

► 31 workers/141 workdays

An agreement was reached.

“Never doubt that you can change history. You already have.”
—Marge Piercy

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Telus also hired replacement workers. Although under the BC Labour Code, it is illegal to hire replacement workers, Telus falls under federal jurisdiction. Since 1999, the Canada Labour Code allows employers to hire replacement workers "only if doing so does not undermine the union." Telus claimed that they were hiring replacement workers to keep up with customer demand.¹⁸

On April 12, 2005, Telus made its "last offer" to the Telecommunications Workers Union (TWU). In May, Telus invoked what they called "soft lockout measures" which included suspending grievance and arbitration activities as well as the operation of several joint union/management committees; suspending the scheduling of Accumulated Time Off and Personal Days Off; suspending payment for the first day of absence for sickness; deferring all wage-progression increases; and freezing vacation entitlements at then-current levels.¹⁹ The union responded with an overtime ban and work-to-rule campaign.²⁰ In July, Telus unilaterally imposed the contract that had been turned down by the union. In response, the workers went on strike. The lockout was finally settled after almost three months, although the workers turned down the first settlement negotiated by the union.

Despite this disgraceful scenario, Telus argued that the workers went on strike. The workers insisted that Telus locked them out.²¹ The Telus dispute demonstrates the apparently permeable boundaries between strike and lockout. At the same time, the aggressive employer tactics detailed above suggest that *lockout* best captures the nature of the dispute.

LOCKOUTS, CONCESSIONS AND MULTINATIONAL CORPORATIONS

Lockouts are used by multinational corporations to intimidate workers into accepting significant concessions, and to justify the movement of production to low-wage countries. Multinationals also try to circumvent international conventions on labour rights, and treat workers differently depending on the country in which they work.

IKEA (2013)

IKEA has over 200 stores in 31 countries, employing

SELECTED LOCKOUTS IN PUBLIC ADMINISTRATION

OKANAGAN MAINLINE MUNICIPAL; BC CUPE

April 1978–May 1978

► 800 workers/13 workdays

An agreement was reached.

GOVERNMENT OF QUÉBEC; QC

Syndicat de la fonction publique du Québec (SFPQ)

June 1979–November 1979

► 15,761 workers/112 workdays

Workers returned to work. The coding "return to work" indicates that no agreement was reached but the lockout was suspended.

THE CITY OF SASKATOON; SK CUPE

July 1994–October 1994

► 903 workers/51 workdays

An agreement was reached.

over 75,000 people and generating over \$12 billion in sales annually. In 1961, it moved production to Soviet Poland to minimize labour costs. Founded by one of the world's richest men, Ingvar Kamprad, IKEA is a multinational corporation which has been accused of labour-rights violations in many countries including the United States, Turkey, Russia, France, Italy and Ireland. In a recent scandal, IKEA admitted that East German political prisoners had been used to make its goods for as long as three decades.²² It is also revealing that IKEA supports LabourWatch, a Canadian anti-union organization of employers and law firms, one of whose major goals is to decertify unions.

The 17-month lockout of 350 IKEA workers in Richmond, British Columbia, began in May 2013 and ended in June of 2014. The unionized workers (Teamsters Local 213) belong to one of only two unionized IKEA stores in Canada. The major issues in the lockout related to employer demands for concessions: first, a two-tier wage structure — the very

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system that these workers had successfully resisted in a 2006 strike; and second, the demand to raise the minimum hours for full benefits from 20 per week to 24 per week.²³

"IKEA is holding 300 families hostage. The company is refusing to let us return to work until we surrender many of our rights. It is unconscionable that this multi-billion dollar corporation has locked us out of our jobs. Why has IKEA hired notoriously anti-union lawyers to sit at the bargaining table in Canada and pretend to negotiate while our families suffer at Christmas time?" said Keith Austin, an IKEA employee for 27 years.²⁴

A 2013 International Fact-Finding Commission on the lockout by UNI Global Union found that IKEA Richmond's management had adopted "a radical anti-worker agenda that opposes unionization and encourages union decertification."²⁵ Peter Lövkvist, general secretary of the Nordic Transport Federation and chair of the Commission commented: "IKEA has clearly violated its own code of conduct, as well as international labor standards. Locking out and intimidating workers, and hiring lawyers with histories of attacking workers and unions — behavior I witnessed personally in Canada — none of this is acceptable ... In Sweden, IKEA would never treat its workers this way or disobey international conventions on labor rights."²⁶

LOCKOUTS, EMPLOYERS AND GOVERNMENTS

Evidence suggests the convergence of interests, and in some cases outright collusion and complicity, between and among employers and governments. In fact, in Canada, since 1982, federal and provincial governments have passed a total of 216 laws that have restricted, suspended or denied collective bargaining rights for Canadian workers.²⁷

Canada Post (2011)

During eight months of collective bargaining negotiations, Canada Post management demanded "unprecedented" concessions, including two-tier benefits, a 26 per cent reduction in the starting salary, a defined-contribution pension for new hires, and replacement of the sick-leave plan with a short-term disability plan for all employees.²⁸

On June 2, 2011, the Canadian Union of Postal Workers (CUPW), which had not been on strike since 1997, initiated a series of rotating stoppages across Canada. On June 14, a day when only 23 CUPW members were participating in a rotating strike, Canada Post Corporation (CPC) imposed a nation-wide lockout of 48,000 postal workers which stopped the delivery and processing of all mail. The federal government claimed that the labour disruption was causing major economic damage, and only one day later, on June 15, announced it would introduce back-to-work legislation which included final offer selection (FOS). A single arbitrator, unilaterally appointed by the government, was empowered to

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On June 14, 2014, Canada Post Corporation imposed a nation-wide lockout of 48,000 postal workers which stopped the delivery and processing of all mail.

select one offer or the other in its entirety. The back-to-work settlement (Bill C-6) imposed wage increases *lower* than the employer's last offer. Gayle Bossenberry, then vice-president of CUPW commented. "It's the Harper government stripping workers' rights away for free collective bargaining."²⁹

During the two weeks prior to the adoption of Bill C-6, the national lockout continued with the

exception of one day: On June 20, postal workers delivered pension and social-assistance cheques nation-wide as part of a union-initiated agreement which had been negotiated in March of 2011 with Canada Post.

The International Labour Organization (ILO), the United Nations agency responsible for drawing up and overseeing international labour standards, ruled that "the back-to-work legislation imposed on Canadian postal workers in June 2011 was unjustified, as postal services do not constitute essential services."³⁰ CUPW challenged the constitutionality of legislation, and in April 2016, Ontario Superior Court Justice Stephen E. Firestone declared that the Conservative legislation "violates the rights to freedom of association and freedom of expression" under the Canadian Charter of Rights and Freedoms sections 2d) and 2b), and that it is "unconstitutional and of no force and effect."³¹ An important victory for all Canadian workers!

Most countries do not collect information on lockouts. As a result, the increased use of offensive lockouts by employers is hidden from sight. As Galbraith said, not counted, not noticed! In the few countries that do differentiate between strikes and lockouts, notably Australia, Germany and India, similar patterns

SELECTED LOCKOUTS IN 2016 & 2017

HEMATITE MANUFACTURING; GUELPH, ON

Service Employees International Union (SEIU) | September 11, 2016–September 20, 2016

LAFARGE TEXADA QUARRYING LTD.; TEXADA ISLAND, BC

USW Local 816 | October 2016–March 2017

ATLANTIC MINERALS LTD.; PORT AU PORT PENINSULA, NL

International Union of Operating Engineers (IUOE) Local 904 | November 11, 2016–end of December 2016

D-J COMPOSITES; GANDER, NL

Unifor Local 597 | Workers have been locked out since December 2016.

CHILDREN'S AID SOCIETY; DISTRICT OF NIPISSING AND PARRY SOUND, ON

CUPE | December 23, 2016–April 23, 2017

NIAGARA CATHOLIC ELEMENTARY SCHOOLS; NIAGARA, ON

Ontario English Catholic Teachers' Association (OECTA) | March 20, 2017–March 26, 2017

CANADA BREAD COMPANY; LAVAL, QC

Syndicat des travailleuses et travailleurs de distribution (CSN) | April 1, 2017–April 27, 2017

CANADA BREAD COMPANY; LANGLEY, BC

Bakery, Confectionery, Tobacco Workers and Grain Millers (BCTGM) Local 468 | April 1, 2017–around May 26, 2017

VARIETY PLACE; OUTLOOK, SK

SEIU | May 21, 2017–July 29, 2017

ONTARIO LOTTERY AND GAMING CORP. FACILITY AT WOODBINE HORSE RACING TRACK; TORONTO, ON

Public Service Alliance of Canada (PSAC) | Workers have been locked out since July 14, 2017.

emerge: an increasing proportion of stoppage days linked to lockouts, and the tendency for lockouts to be longer than strikes.

This article has highlighted the anger, risk, struggle and solidarity involved in the lockout experience, and revealed patterns of employer aggression, intimidation and anti-unionism. The individual case studies and lockout lists included in this article only scratch the surface of the more than 2100 Canadian lockouts since 1976.

Linda Briskin has been a feminist and union activist for more than fifty years. She is recently retired from teaching at York University. Her commitment to social justice has framed her scholarship and inspired her teaching.

I would like to thank Stephanie Ma for her work on newspaper, internet and union archives, Laurell Ritchie who shared her wealth of knowledge with me on many occasions, and Kristine Klement, whose work on the ESDC data has been invaluable. — LB

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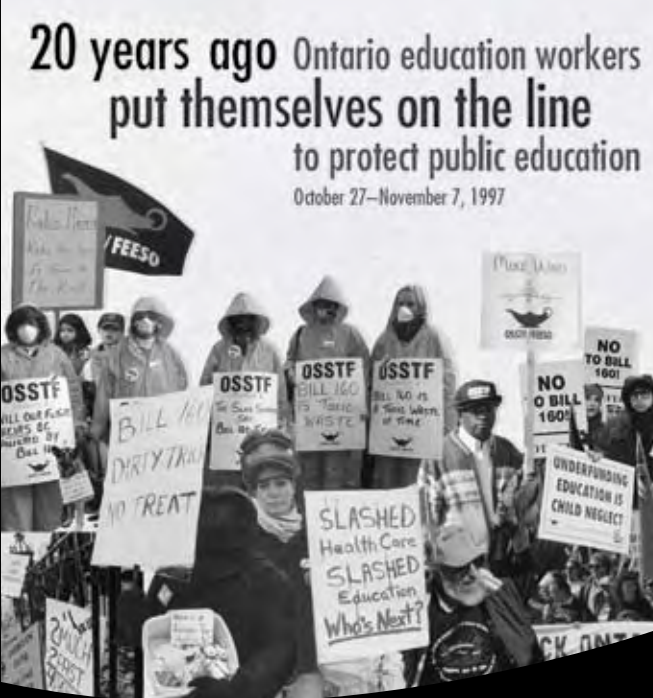
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