

# The Public Employee

## Ontario denies justice to workers

### Province jails CUPE leaders

On June 11, Grace Hartman, national president of the Canadian Union of Public Employees, Lucie Nicholson, president of CUPE's Ontario Division and Ray Arsenault, CUPE national representative, were sentenced to jail for their part in last winter's Ontario hospital workers' strike. The jailings were the latest in a series of gross injustices and vicious reprisals carried out against hospital workers, CUPE staff and leaders by the Ontario government and the Ontario Hospital Association.

The June court appearance was the second time CUPE had come before the Ontario Supreme Court in connection with the hospital strike. Four CUPE members, one staff member and a business agent appeared before the Supreme Court right after the strike for failure to obey a labour board cease-and-desist order. The court dismissed the motion.

Hartman, Nicholson and Arsenault were among 18 charged with contempt for failure to obey a January Supreme Court injunction to restrain them from continuing the strike. Associate Chief Justice William Parker sentenced Hartman to 45 days in jail, and handed Nicholson and Arsenault each a 15-day term. He also fined nine other CUPE hospital members \$200 each, one staff member \$300 and suspended sentence for five others. Those fined were staff member Stephen Backs, and CUPE members Michael Beaudry, Martha Young, Pearl Chytuk, David FitzSimmons, Albert Bugden, Mary Marshall, Timothy O'Connor, Charles Chircop and Susan Brooks. Those handed suspended sentences were Michael Hurley, Justin Legault, Katherine McNamara, Rita Powell and Maureen Namaro-Martin.

Other reprisals, equally severe, had already been taken by the hospitals and the OHA. These included 35 firings, about 3,500 suspensions and about 5,600 disciplinary letters.

Prior to being sentenced, Grace Hartman addressed the court on the unfair treatment of hospital workers and on how an unjust law led 14,000 law-abiding, decent citizens to strike illegally. She did this in the wake of the recent hospital arbitration award, which imposes yet another sub-standard settlement on the hospital workers and makes a mockery of justice in Ontario. A transcript of her statement is on page 4.

### World labour shocked by CUPE jailings:

“It was a shocking surprise to us that violations of basic trade union rights still can take place in a civilized country like Canada.”

**Swedish Union of Municipal Employees, Swedish Union of Salaried Employees in Hospital and Public Health Services and the Federation of Civil Servants.**

“Bill Davis and his government should hang their collective heads in shame for their unwarranted action. They have brought down upon the province of Ontario the contempt of every trade unionist in Canada... The jailing of working people does not intimidate them, but rather it strengthens their resolve to fight harder and win what is rightfully theirs.”

**Jim Kinnaird, President, and Dave MacIntyre, Secretary-treasurer, B.C. Federation of Labour.**

“This action is part of an outrageous anti-labour escalation on the part of the government and the courts.”

**Bill Clark, President, Telecommunications Workers Union, Vancouver.**

“This shocking disregard and invasion of civil liberties by the government contravenes the standards by which a democratic society must live. If it is justice under the law to jail a union leader for defending her civil rights while only levelling fines on corporate officers found guilty of denying employees the right to organize a union in Ontario as happened with K-Mart, then we too reject that law and demand its removal.”

**Negotiating Committee and Chief Stewards, Local 1005, United Steelworkers of America, Hamilton.**

“The jail terms handed down are an example of the double standard of justice that still continues in Ontario... We continue in this province to have one law for the agents of capital and another for the agents of labour.”

**Cliff Pilkey, President, Ontario Federation of Labour, Toronto.**

“Shocked by your imprisonment. 700,000 members of the British National Union of Public Employees demand immediate release. Demonstration planned Ontario House, London.”

**Alan Fisher, General Secretary, National Union of Public Employees, London.**

“Delegates from 28 countries representing 25 million workers horrified to learn of your imprisonment. Their thoughts and support were contained in message to Ontario Premier William Davis denouncing denial of human and trade union rights.”

**Carl Wright, Commonwealth Trade Union Conference, Geneva.**

“Is there one system of justice for management and one system of justice for labour leaders in this province? This is not simply a matter for the courts; this is a matter of high government policy. This government asks for jail sentences for labour leaders while management executives are let off with a slap on the wrist.”

**Michael Cassidy, Leader, Ontario New Democratic Party, Toronto.**

“I am incensed by the aggressive approach being adopted by prosecutors across this province in seeking jail terms for union leaders and union members and I am beginning to suspect that an unwritten policy exists—a policy set by the attorney-general and the government of this province—a policy that is biased against unionists.”

**Robert White, Director, United Auto Workers, Toronto.**

“Public Services International totally condemns conviction... Wondering how great Canadian Democratic nation can sincerely censure and condemn governments of El Salvador, Guatemala, Nicaragua, Argentina, Brazil, Uganda, Bolivia, Russia... while trampling human rights and denying free speech.”

**William Sinclair, Public Services International, Washington, D.C.**

“The imprisonment of Sisters Hartman, Nicholson and Brother Arsenault is a condemnation of rights of trade unionists in Ontario. The Ontario Hospital Association executives are the guilty party who should be in prison for refusing to negotiate a collective agreement since 1969.”

**Members and Executive of Local 6500, United Steelworkers of America, Sudbury.**

“You are the latest victims of the repressive measures favoured by public sector employers in their dealings with public sector unions. It is clear that the spectre of jail terms hangs over all of us who are working in the union movement to bring about a better world for the members we serve.”

**John Booth, President, Alberta Union of Provincial Employees.**

“We are shocked and outraged over your prison sentence. It offends our democratic traditions and is a blow to free labour throughout the world. AFSCME's one million members stand with you in solidarity and we pledge our fraternal support to you, CUPE and Ontario hospital workers, whose rights you were protecting.”

**Jerry Wurf, President, American Federation of State, County and Municipal Employees, Washington, D.C.**

“We were dismayed that you have been sentenced to jail for actions during the strike of Ontario hospital workers. You have demonstrated great courage and a will of iron while defending the interests of unionists involved.”

**Fernand Daoust, General Secretary, Quebec Federation of Labour, Montreal.**

“President Hartman and the other convicted trade unionists are being jailed because they performed the duties required of them by the union constitution. They defended their members' rights to the best of their abilities.”

“There must be a basic flaw in our society if inequitous legislation forces working people to suffer the stigma of a jail sentence and the personal sacrifice of freedom it represents for the sake of principle.”

**Dennis McDermott, President, Canadian Labour Congress, Ottawa.**







**O**ur commitment to provide a decent life for our families creates its own legitimate demands. Workers are torn between their legal obligations on one hand and the reality of poverty on the other. A worker's concept of justice necessarily includes social justice.

*Grace Swaminathan*  
Canadian Union of Public Employees

# “The cause of the hospital worker is just...”

Grace Hartman defends the right to strike:

As the President of the Canadian Union of Public Employees I am charged with the responsibility of articulating the needs and aspirations of the members of my union, and my brothers and sisters who stand here beside me today. I do this willingly, and with a sense of honour that my fellow workers have chosen me to speak for them.



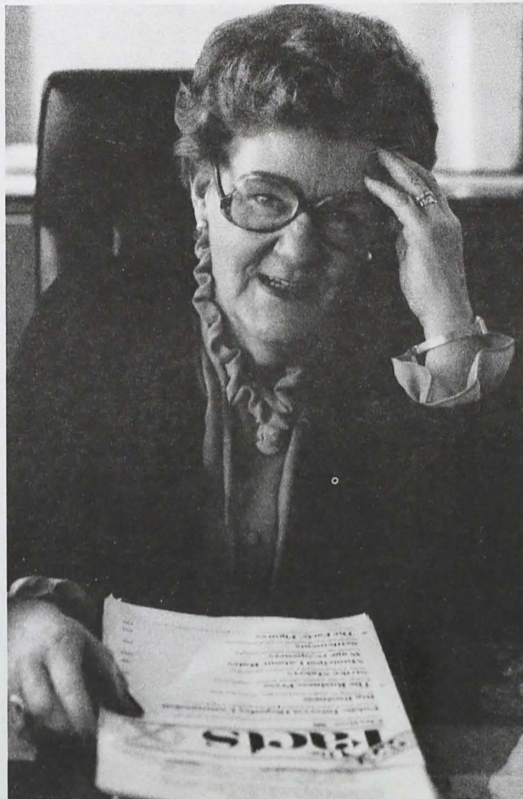
Trade unionists in this country understand that without a respected court and the rule of law, our rights would not be protected or enforced, but **Lucie Nicholson** at the same time we are active in a movement that has, at times in its history, been required to fight bitterly against particular pieces of legislation.

A union, my union, is nothing more or less than those members speaking and acting collectively. In this particular case, I was responsible for articulating the message that Ontario's hospital workers were being treated unfairly. I did so in the firm belief that the cause of the Ontario hospital worker is fair and just.

Hospital workers were caught in the grips of a system that denied them any opportunity to win decent wages and working conditions for themselves and their families. And this situation is due solely to one fact: they do not have the right to strike.

Ordinarily, employees who are dissatisfied with their working conditions have the right to withdraw their services. However, in Ontario, the right to strike was taken away from hospital workers in 1965, and a system of compulsory arbitration was imposed in its place. This system of compulsory arbitration, which CUPE has opposed from the outset, has totally failed the hospital workers. During the decade preceding the imposition of compulsory arbitration in Ontario, as the Bennett Royal Commission observed, “the lot of non-professional hospital workers has steadily improved.” Since 1965 when the Hospital Labour Disputes Arbitration Act was passed, the working conditions of hospital workers in Ontario have steadily deteriorated, and their wages have fallen behind other comparable workers who enjoy the right to strike. It is particularly bitter for hospital workers to be told that they are not allowed to strike because they are essential, and yet to see that supposed essentiality ignored by the hospitals and the government when it comes to their salaries and working conditions.

This situation has generated intense alienation among thousands of hospital workers across this province. Their frustration is so intense that when the hospital workers had to decide, in the secrecy of the ballot box, with only their own conscience to guide them, whether or not to strike, three out of every four hospital workers who voted decided to strike. This was a strike called by the workers themselves. Ultimately, thousands upon thousands participated in the strike. Yes, that strike was prohibited by the legislation which imposed compulsory arbitration, but it is a fact of life that the prohibition of the right to strike does not prevent strikes, it just makes them illegal. Workers are torn between their legal obligations on one hand, and the reality of poverty on the other. Our commitment to provide a decent life for our families creates its own legitimate needs and demands. Workers are torn between their legal obligations on one hand, and the reality of poverty on the other. A worker's conception of justice necessarily includes social justice.



Grace Hartman

The right to strike is a basic right of all workers. It is enshrined in conventions of the International Labour Organization and the United Nations to which Canada is a signatory. It has been achieved only after hundreds of years of struggle and is now widely recognized and accepted as a fundamental right. The legislation taking away the right of Ontario hospital workers to strike was not recommended by the Bennett Royal Commission Report which preceded passage of the Act. Apart from Prince Edward Island, Ontario is the only province in Canada that denies hospital workers the right to strike. Believe me, it is impossible to explain to hospital workers why they should be denied the

witness and experience the effects of deteriorating patient care. Time and again, I have had hospital workers come to me and say they simply did not have the time or energy to serve the patients



Ray Arsenault

adequately. They were ashamed. They were embarrassed. And finally they were angry. This is not a strike that we sought, it is a strike we attempted by all means to avoid. Before the strike commenced, CUPE repeatedly asked the hospitals and the government to negotiate with us in good faith as reasonable men and women in order to prevent a strike. But it is a fact, that was indeed widely recognized and reported, that the hospitals turned a deaf ear. They did not want to negotiate. They knew that, with arbitration available, they did not have to negotiate.

We recognize that we do not stand here today because we breached a statute of the Legislature of Ontario, but rather because we breached an order of a Judge of the Ontario Supreme Court. Our regret in this entire matter is that it is said that by our words or conduct we attempted to bring the system of the administration of justice in this province into disrepute. Such was not our intention. Our intention, and the intention of the thousands of Ontario hospital workers who went on strike, was to attempt, by the only means available, to protect their very ability to survive with dignity in this society.

I wish to add a personal note. I have been active with the labour movement ever since I was a clerical worker in North York's Planning Office. I have always tried to improve the lot of my union members and the people they serve. I have struggled with every means at my disposal to improve the society I live in. So have my brothers and sisters who are here with me today. When the Hospital Labour Disputes Arbitration Act was introduced in 1965, I was part of a large group of working people who did their best to convince our legislators that the law was wrong and would be harmful to hospital workers and patients. We talked to groups, lobbied members of the provincial Parliament and demonstrated our opposition in marches and rallies, all to no avail. We tried to make ourselves heard 16 years ago and no one listened. In those 16 years hospital workers have seen their wages fall behind those of other workers, while their workload has been increased, to the point where they cannot give the patients the care they deserve. The system of compulsory arbitration failed completely; arbitrators have refused to deal with workload or the standard of patient care.

Hospital workers have become progressively more and more frustrated. Our frustrations have been pent up for 16 years. It is only as a last measure, to which we have been driven, that hospital workers have gone on strike. The result is that we are here today. We have recognized by our plea of guilty the effect of our actions which we understand is expressed in legal terms as contempt of court. But we must say on behalf of all hospital workers that society cannot continue to treat hospital workers with contempt.

In closing let me emphasize, because this is important to us, that we did not intend to encourage disrespect for the court system, its officers or those judges who are responsible for the integrity of the system. We are not law breakers—we are law-abiding citizens with families with deep feelings for the patients and workers we serve.

## “The system has totally failed hospital workers”

right to strike when 2,500 hospital doctors in Ontario were allowed to strike barely three months before CUPE members went on strike.

It is important to emphasize, that the hospital workers are not uncaring people out to improve their lot to the detriment of the people they serve. In fact, pay, while vitally important, was not the only issue that sent thousands of hospital workers out on strike. A crucial issue for hospital workers was and remains the plight of Ontario's patients. It may seem ironic to some that we say today that we withdrew our services in the interests of patients. But we have consistently said to the hospitals, the government and the public, long before the strike commenced, that the interests of patients were being seriously jeopardized by the terms and conditions under which hospital workers are employed. Years of staff cutbacks, budget restrictions, work speed-ups, have all contributed to a serious decline in patient care in this province. And because of the work they do, the hospital workers were among the first to