

**COURT OF APPEAL UPHOLDS DECISION THAT REMOVING PRINCIPALS AND VICE PRINCIPALS FROM TEACHERS' UNIONS DID NOT VIOLATE THE *CHARTER***

*OTF et al, and Attorney General of Ontario*  
Unreported Decision of the Ontario Court of Appeal dated June 7, 2000

**Facts**

Bill 160, the *Education Quality Improvement Act, 1997*, removed principals and vice principals from teachers' bargaining units and from statutory membership in the teachers' unions. The plaintiffs alleged that these amendments were enacted as a reprisal for their participation in the province-wide protest against Bill 160, and that this participation was protected by sections 2(b) and 2(d) of the *Charter*. Additionally, the plaintiffs argued that the amendments infringed the principals' and vice-principals' freedom of association under the *Charter*.

**Ontario Court (General Division)**

In a decision dated March 17, 1998, Southey, J. of the Ontario Court (General Division), concluded that the Bill 160 amendments were enacted because of the principals' and vice principals' participation in the protests against Bill 160. However, Southey, J. concluded that the amendments did not constitute a reprisal. Instead, the amendments were made to remove principals and vice-principals from a position of conflict between their obligation to manage schools and their loyalty to the members of the union. Southey, J. also found that the amendments did not infringe the freedom of association guaranteed to principals and vice principals by removing them from teacher bargaining units and denying them statutory membership in the teachers' unions.

**Ontario Court Of Appeal**

The Court of Appeal dismissed the unions' appeal. The Court agreed with the General Division that, although the exclusion of principals and vice-principals from the bargaining unit and from statutory membership in the teachers' union was a response to the principals' and vice principals' participation in the protest against Bill 160, the amendments did not constitute a reprisal because they were enacted for a legitimate purpose.

On the issue of freedom of association, the Court followed the Supreme Court of Canada's decision in *Delisle v. Canada (Deputy Attorney General)*, [1999] 2 S.C.R. 989, in which the Court concluded that excluding one group of workers from a statutory collective bargaining regime does not violate section 2(d) of the Charter.