

# SONGSHEET

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## Appeals court overturns Peters contempt ruling

By Paul Morse

A higher court has thrown out a landmark contempt ruling against a **Hamilton Spectator** reporter for refusing to identify a confidential source.

On March 17th Ontario's Court of Appeal struck down both the contempt ruling and the \$31,600 penalty against reporter Ken Peters for refusing to identify a city politician who gave him confidential documents about an investigation into conditions at a Hamilton nursing home.

While the decision stops short of providing a blanket protection for journalists against being ordered to reveal a confidential source, it acknowledges that disclosing the identity of a source would have a chilling effect on journalists' sources and the gathering of news.

"In my view, it is sufficiently apparent that the likely effect of revealing a journalist's confidential source will be to discourage from coming forward other potential sources who, for whatever reason, need to conceal their identity," wrote Judge Robert Sharpe in the unanimous three-judge decision.

The court rejected the Ontario government's argument that the Canadian Charter of Rights and Freedoms did not impact the case. "I find it helpful -- indeed necessary -- to consider the import of the constitutionally guaranteed rights of freedom of expression and freedom of the media," he wrote.

The appeal court also ruled that the Superior Court judge David Crane erred by too quickly finding Peters in contempt before exhausting all other options.

"I am delighted that the court has ruled in our favour," said Spectator Editor-in-Chief David Estok.

"I am especially pleased and proud of Ken  
*Please see "Peters," over*

## Commons Staff Get New Contract

Broadcasting and technical staff at the **House of Commons** have a new two-year contract ordered by arbitration.

The 80 staff, recently moved over from CEP Local 102-O to SONG, get annual wage increases of 2.5% following the prevailing pattern in the federal public service. Staff did achieve a breakthrough improvement, shifting the burden of paying for medical certificates demanded by the employer onto management. However the arbitrator Ian Mackenzie denied the union's request for independent medical examinations instead of government physicians.

Owing to the endemic delays in the bargaining and arbitration procedures under the Parliamentary Employment & Staff Relations Act of Canada, the contract expires at the end of March 2008. Parliamentary staff are forbidden the right to strike and must resolve bargaining impasses through binding arbitration.

## Quebecor Contracts Out Ad Building to Itself Belleville Intel Jobs Lost

**Quebecor** is moving all of the ad building work for the **Belleville Intelligencer** to its non-union weekly, **The Community Press**, in neighbouring Stirling. Three full time and three part time ad builders are laid off, including unit chair Karen Gilham. They are offered the chance to apply for their own jobs, at lower pay in a non-union shop, at The Community Press.

"Quebecor is blatantly snubbing its nose at employees who have made a democratic choice to be part of a union by shifting their work to non-union shops," SONG President Brad Honeywill said.

## Arbitrator Denies OHIP Pay Grievance

Arbitrator Russell Goodfellow has denied a grievance from Local 87-M's **A-Channel** (London) unit which claimed that the company was obliged under the union contract to pay the provincial government's health premium.

*Please see "A-Channel," over*

## A-Channel Grievance Denied *Continued*

The A-Channel contract, first negotiated in the spring of 2004, obliges the company to pick up “the cost of the Ontario Health Insurance Plan [OHIP] or any medical coverage introduced by the Federal or Provincial governments to replace [it].” The Ontario Health Plan tax costs each employee up to \$960 annually.

During the 2004 contract talks, CEP negotiator Kim Beemer explained to the employer that, even though OHIP employee premiums had been dormant for 20 years, the union wanted the OHIP clause obliging the employer to be responsible for the premium “just in case something changed.” Management agreed to the union’s clause. Then shortly after talks concluded, the McGuinty government revived health care charges for employees by imposing the “Ontario Health Tax.”

Since 2004, over 70 arbitrations have been held in Ontario seeking employer coverage of the cost, based on subtly different language in a variety of collective agreements that appeared to shift the responsibility for paying “OHIP” onto employers. The vast majority of arbitrators agreed with the companies.

At A-Channel, arbitrator Goodfellow ruled that there was no one-to-one connection between the Ontario Health Tax and OHIP and therefore the collective agreement’s reference to the employer assuming “the cost of OHIP” did not apply to the Health Tax. Goodfellow observed that cash collected under the Health Tax goes into the government’s general revenues and is not legally earmarked for OHIP funding.

This seemed difficult to reconcile with the fact that the Liberal Minister of Finance, Greg Sorbara, publicly promised that “every cent” of the Health Tax would go into health care. However Goodfellow made a distinction between the general expenditures on “health care” and the OHIP definition of services covered by “health insurance.”

“This is a big disappointment for the union, given how clear we were about the intent of the contract language at the bargaining table,” commented Local Representative Howard Law. “It’s not an accident that we find so much legal hairsplitting in these rulings. I think all of the arbitrators who have made decisions in these OHIP cases struggled with the unexpected high cost of the new health premium. It was equivalent to a one per cent general wage increase and that flipped out the employers. That was the taboo subject no one wanted to talk about.”

## Peters’ Contempt Overturned *Continued*

Peters who took a principled stand on a crucial issue. His courage and determination will serve to help journalists all across our country in the future.”

Peters was called to testify in a \$15.5 million lawsuit by St. Elizabeth Villa against the former region and the City of Hamilton.

Peters refused Crane’s order to reveal his source and was found in contempt of court. He was ordered to pay \$31,600 in legal costs, the largest contempt penalty handed out to a journalist or media outlet in Canadian history.

Peters said that while the decision stops short of guaranteeing a shield law for journalists and sources similar to the solicitor-client privilege, it makes important advances.

“The appeal court made a decision that confidential sources are important for journalists and that, without confidentiality, there will be a chilling effect on news sources,” Peters said.

“I feel good that I will no longer be found in contempt for doing my job.”

Canadian Association of Journalists president Mary Agnes Welsh hailed the decision as a step forward for freedom of the press.

“In this case, the importance of allowing a journalist to protect a whistleblower and to protect that promise of confidentiality outweighed the rights of the courts, police and the nursing home in this case,” she said.

“This is yet another precedent that journalists can look to ... to say that here is a test that the courts have to follow when they’re looking at whether or not to protect sources.”

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## Corus Staff Ratify 1 Year Agreement

The 40 master control staff at **Corus Entertainment** in Toronto have ratified a one-year contract, expiring in August 2008. Gains were hard fought and negotiations went down to the strike deadline. The wage increase is 2 per cent and the severance pay formula was improved.

This is the third collective agreement for the Corus staff, each of them highly contentious. The company was adamant on a short term contract and will be moving 21 previously non-union employees into the bargaining unit.

