

Australian teacher to challenge frame-up

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The frame-up and ousting of teachers in the state of Victoria, under the auspices of Teaching Service Order 140 (TSO 140), the notorious legislation enacted by the conservative Kennett state Liberal government in 1993, is being openly challenged in a legal action brought by secondary school teacher, Geraldine Rawson.

Rawson was sacked in July 1998 after a two-year disciplinary process. Scores of Victorian teachers (anecdotal evidence suggests at least several hundred, but no official figures are available) have been quietly shunted out of the public education system after facing charges and disciplinary action under TSO 140's provisions.

TSO 140 prohibits any teacher from publicly commenting on education policy. It also provides a mechanism for principals to lay charges against teaching staff, but then denies the latter the right to defend themselves. Teachers against whom allegations are made have no right to confront their accusers or cross-examine them. Nor are they able to inform their colleagues or mount a public defence.

Since the only way to defeat any victimisation is by publicly exposing it, teachers facing vexatious allegations are being caught in a classic Catch-22 situation. If they speak out and expose the allegations, they face further charges and dismissal; if they don't, the frame-up succeeds and they're forced out, with literally no avenue available to clear their names.

Up until now most teachers affected have been intimidated into resigning. Rawson's appeal on the grounds of unfair dismissal, which will be heard on March 1 in the Australian Industrial Relations Commission, is the first legal action aimed at exposing the entire process.

Any objective examination of the sequence of events leading up to Rawson's dismissal demonstrates the blatant character of the frame-up organised against her.

In June 1996, Rawson was informed by her principal that he had received two letters from parents of children in her classes, expressing concerns at her teaching methods. In fact, the administration had received telephone calls from the parents, and had suggested that they put their concerns in writing. The first letter was written on May 23, after Rawson had been back at work for just 12 days. She had just resumed teaching duties on a graduated (partial) basis, after being absent on sick leave due to a back injury for most of the previous year. The second letter arrived four working days later.

The letters upbraided Rawson for her attempts to discipline what was a particularly rowdy group of children. Among the complaints listed was: "telling all the boys of the class they have a detention tomorrow because some were farting and making the room smell," along with the comment: "We are extremely disappointed and

disgusted at [this] language."

Another was: "Mrs. Rawson also spends class time frequently having the students 'straighten tables' at the beginning of a period."

The second letter castigated Rawson for being "frequently absent with no adequate follow on by replacement teachers" and then attacked her assessment procedures, lesson planning, homework assignments and student behaviour management.

If the educational interests of the school community as whole--namely, the students, teachers and parents--were the primary consideration, one would expect such complaints to occasion a swift response on the part of the school administration. Rawson, as a longstanding teacher with more than 27 years' experience, would be consulted and a meeting convened to address the parents' concerns. Rawson would have the opportunity to explain to the parents her approach to the curriculum and class discipline, while at the same time informing them of the medical reason for her absences. The principal's aim would be to clarify any misunderstandings and attempt to resolve any differences.

In the event that there were ongoing problems, the principal and the administration would provide all the assistance and support necessary for Rawson to overcome them, given that she had been absent from teaching for a lengthy period, with a serious medical condition.

But no such procedures were adopted. Instead, Rawson was presumed guilty from the outset. The parents' initial concerns, whatever their source or motivation, were immediately utilised to set in motion a process which, from the outset, had as its aim her removal, not only from the school but from the teaching service as a whole.

In her initial meeting with the principal, Rawson was obliged to make an immediate response to the issues raised. She replied in detail to the allegations, and then went on to point out that while the class in question was particularly difficult and seemed to resent her taking over, she felt that this was a rather natural and expected response. As she was later to explain, one of the classes at the school had been taken by 13 different teachers in one year.

Nevertheless, some six weeks later, she received a formal letter of complaint outlining seven allegations concerning her professional conduct and competency.

In her seven-page written rebuttal, Rawson attacked the allegations as "mischievous" and refuted each of them in detail. At the same time, she began a public defence campaign, in collaboration with the Committee to Defend Public Education, directed to her colleagues in the public education system, as well as to parents and students at the school.

In an open letter to her co-teachers, Rawson wrote: "From the

start I want to make it clear that what is underway is a concerted campaign of victimisation to drive me, not only out of [this school], but out of the teaching profession altogether."

The letter went on to detail how, from 1967 until 1991 she had taught at a total of three schools. At the end of 1992, facing mounting health problems, Rawson had applied for a redundancy package but was refused. Instead, she was named "in excess", and between 1993 and 1994 was moved on four occasions to different schools, working for most of the time as a fill-in for absent teachers, without her own classes, and forced to teach outside her area of qualification.

Now, she went on to argue, after her return from a prolonged absence due to an injury sustained at the school, the administration was carrying out a "systematic campaign of harassment".

"As you know, great pressure is being exerted on school administrations to cut costs. Replacement teachers cost money, and therefore cut into the overall budget. As far as the school is concerned I am now a financial liability. Far better for them to get rid of me and replace me with a young contract teacher on a far lower salary."

Rawson referred to the complaints as "laughable" were they not "being used to carry out such a flagrant attack on democratic rights".

One month later, the principal advised her that he would be proceeding with disciplinary action, on three of the seven counts, under TSO 140, and referring the charges to the Department of Education (DoE). No explanation was provided as to why four allegations were being dropped, even though they formed part of the same initial complaints as the three being pursued. Later, some of these allegations were resurrected.

Rawson was accused of failing to regularly and consistently correct student work, of failing to plan and prepare appropriate courses, programs or activities, and of failing to assess and evaluate student progress.

By February 1997 the list of allegations had grown. The Department's "Enquiry Officer" now informed Rawson that she "behaved inappropriately and unprofessionally". Part of the evidence for this was provided by a parent in a further letter of complaint, cited by the DoE, which denounced Rawson for making "sexist remarks and statements to my daughter such as ... 'sit up like a lady'."

In addition Rawson was accused of disclosing "confidential information gained through her connection with the Teaching Service for purposes other than the discharge of her official duties".

This was a reference to Rawson's public campaign, proscribed under TSO 140.

As Rawson explained in her open letter: "Students are being encouraged to make complaints about my work. Discussions are held with parents by the school administration about my case. But at the same time, under TSO 140, I am being forbidden to even mention these complaints to my colleagues, let alone mount a public defence against them.

"There could not be a more fundamental attack on my democratic and civil rights as a teacher. My name is being blackened, my record compromised, and I have no right to raise

any public objection.

"What is now being prepared is a kangaroo court. Formal charges will soon be laid, with a view to intimidating me into resignation. If I refuse, the plan will be to eventually dismiss me. And I am not alone. At this school there are two other teachers in a similar situation, while there are hundreds more in other schools."

During the next 17 months, DoE officials conducted one interview and one consultation with Rawson.

In May 1998, Rawson was informed that the Department had decided to dismiss her. At no time in the two years since the first complaints were made, was she afforded the opportunity to face her accusers, question them or subject their allegations to examination.

Had Rawson acquiesced to the line taken by the Australian Education Union (AEU), she would have kept quiet and accommodated herself to the entire process. In fact, the DoE's ability to implement TSO 140 has relied from the beginning upon the union's co-operation. Officials have advised their members to abide by all the provisions of the legislation, including the confidentiality clause, and have actively sought to prevent anyone from challenging it.

When a union branch passed a resolution in her support, the AEU intervened to organise that it be overturned. Attempts by union members to discuss Rawson's victimisation at mass meetings and union conferences were blocked by the leadership. And when Rawson was actually charged with the offence of speaking at a union branch meeting about her case, the union still failed to act.

Rawson's case before the Industrial Relations Commission is being prepared and organised by the Committee to Defend Public Education, established by the Socialist Equality Party in 1995. It constitutes an important test case, under conditions of an unrelenting assault on public education. Over the past five years, 400 Victorian public schools have been shut down, and 9,500 permanent teaching positions axed. The purpose of TSO 140 has been to create a general climate of intimidation and apprehension among teachers, thus undermining their democratic right to speak out and oppose what is taking place.



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