

Australian state government faces demand for teacher's reinstatement

Test case to be held in Supreme Court

26 November 1999

High school teacher Geraldine Rawson was victimised and sacked by the Education Department in the Australian state of Victoria last year under legal provisions that denied her the right to a fair hearing or to publicly expose her victimisation.

She decided to challenge both her dismissal and the legality and constitutionality of the legal provisions in the Australian Industrial Relations Commission and the Victorian Supreme Court. Last October, the Victorian state elections saw the defeat of the Kennett Liberal government that had introduced the provisions in 1993. The opposition Labor party formed a minority government, agreeing to a charter drawn up by three Independents demanding, among other things, the repeal of all legislation aimed at gagging teachers and other public servants.

Rawson's Supreme Court case opens in Melbourne next Tuesday, November 30. The Committee to Defend Public Education, established by the Socialist Equality Party, which is organising her defence, has issued an open letter to Labor Premier Stephen Bracks, calling on the new Victorian government to honour its promise by reinstating Rawson and repealing the legislation under which she was dismissed..

Below we reprint the CDPE's open letter.

Dear Mr Bracks,

The Committee to Defend Public Education calls on your government to reinstate, immediately and unconditionally, sacked secondary school teacher Geraldine Rawson.

During the course of the recent state elections, Labor pledged to repeal the anti-democratic provisions put in place by the Kennett government to gag teachers and all public servants. This pledge was part of an agreement, made with independent MPs, which enabled you to form a minority government.

Now you are obliged to put your commitment into

practice.

Geraldine Rawson was dismissed last year by the Victorian Education Department under Teaching Service Order 140. The Kennett government introduced TSO 140 in July 1993. It became a mechanism for hounding teachers out of the profession by placing them on charges, yet providing them with no means of conducting a legitimate defence.

Between 1992 and 1997 the Kennett government shut down 400 schools—nearly 20 percent of the state's total. On many occasions Departmental officials threatened teachers, and sometimes entire schools, with disciplinary action under TSO 140 for criticising cutbacks and forced amalgamations.

Mrs Rawson's case is typical of many teachers, particularly in Melbourne's working class areas. In 1992, amid school closures and cuts implemented under the former Labor government, she was declared to be “in excess”. An English and drama teacher with 30 years' experience, she was transferred six times from one school to another between 1991 and 1994, working as a fill-in for absent teachers, often outside her area of expertise.

In 1995 Mrs Rawson was badly injured, fundamentally due to the over-crowded and unsafe conditions at her school. Student numbers in the school had increased by more than 50 percent between 1992 and 1995, the result of closures and mergers of schools in neighbouring suburbs. No parallel increase in facilities, resources and specialist staff was instituted to cope with the added pressures.

The Education Department forced her to return to work before she was fully recovered, placing her under enormous strain. Written complaints were solicited about her teaching methods and style from students and parents, laying the basis for an official complaints procedure.

Mrs Rawson made a detailed written reply to each of the allegations, denying any wrongdoing and accusing both the school administration and the Department of seeking to railroad her out of the teaching service.

In an Open Letter to her fellow teachers, parents and students, written on July 30 1996, four days after the disciplinary procedure was initiated, she wrote: "I want to make it clear that what is underway is a concerted campaign of victimisation to drive me, not only out of Buckley Park Secondary College, but out of the teaching profession altogether."

She described the methods being used against her. "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 Teaching Service Order 140, I am being forbidden to even mention these complaints to my colleagues, let alone mount a public defence against them."

Rawson explained why she had decided to take a public stand, in defiance of TSO 140: "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... And I am not alone. At this school there are two teachers in a similar situation, while there are hundreds more in other schools."

At no stage throughout the entire disciplinary procedure was Mrs Rawson afforded the opportunity to face her accusers or cross-examine them.

While the numbers have never been made public, hundreds of teachers have been sacked under similar circumstances. Like Mrs Rawson, many had simply become a financial liability under conditions of rampant cost-cutting. Between 1992 and 1997, 9,500 teachers' jobs were abolished, and many experienced and better-paid teachers replaced by younger contract teachers on far lower salaries.

Geraldine Rawson, however, was the first victimised teacher to take her case openly to the public. Some months after issuing her Open Letter, she was charged with the additional offences of breaching clauses 3.7 and 4.19 of TSO 140.

Last year Mrs Rawson, with the assistance of the CDPE, initiated a two-pronged legal challenge. She lodged an application in the Australian Industrial Relations Commission on the grounds of unfair

dismissal, challenging the Department's version of the facts. A hearing in the IRC would enable Mrs Rawson to conduct a proper defence against the charges brought by the Department for the first time.

In June of this year, the Department tried to have the case thrown out of court, on the grounds that it constituted a "political attack" on TSO 140 and hence an "abuse of process". As Mrs Rawson's barrister, David Grace QC, pointed out to the IRC, if that argument were to succeed, then "freedom of speech and freedom of political expression is muzzled in this state".

The IRC ruled against the Education Department. Mrs Rawson's case was adjourned, however, to await the outcome of proceedings she had also instituted in the Victorian Supreme Court, to challenge the legality and constitutionality of TSO 140. The Supreme Court case is due to open on November 30 in Melbourne and will focus on TSO 140's infringement of freedom of speech, the right to political communication and the right to a fair hearing.

We call upon your government to reverse this flagrant attack on democratic rights and civil liberties by unconditionally reinstating Geraldine Rawson with full compensation and by repealing all gagging provisions still remaining in Victorian legislation.

Sincerely,

Will Marshall

CDPE Secretary



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