

**SUPREME COURT OF CANADA**

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| **Citation:** British Columbia Teachers’ Federation*v.* British Columbia, 2016 SCC49, [2016] 2 S.C.R. 407 | **Appeal heard:** November 10, 2016  **Judgment rendered:** November 10, 2016  **Docket:** 36500 |

Between:

British Columbia Teachers’ Federation, on behalf of all members of the

British Columbia Teachers’ Federation

Appellant

and

Her Majesty the Queen in Right of the Province of British Columbia

Respondent

- and -

Attorney General of Canada,

Attorney General of Ontario,

Attorney General of Quebec,

Attorney General of Manitoba,

Attorney General of Saskatchewan,

Centrale des syndicats du Québec,

Canadian Labour Congress,

Canadian Association of Counsel to Employers,

National Union of Public and General Employees,

Public Service Alliance of Canada,

Professional Institute of the Public Service of Canada,

Association of Canadian Financial Officers,

Association of Justice Counsel,

Canadian Association of Professional Employees and

Coalition of Ontario Teacher Affiliates

Interveners

**Coram:** McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

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| **Reasons for Judgment:**  (para. 1) | McLachlin C.J. (Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ. concurring) |

British Columbia Teachers’ Federation *v.* British Columbia, 2016 SCC 49, [2016] 2 S.C.R. 407

British Columbia Teachers’ Federation, on behalf of all members of the British Columbia Teachers’ Federation Appellant

v.

Her Majesty the Queen in Right of the Province of British Columbia Respondent

and

Attorney General of Canada,

Attorney General of Ontario,

Attorney General of Quebec,

Attorney General of Manitoba,

Attorney General of Saskatchewan,

Centrale des syndicats du Québec,

Canadian Labour Congress,

Canadian Association of Counsel to Employers,

National Union of Public and General Employees,

Public Service Alliance of Canada,

Professional Institute of the Public Service of Canada,

Association of Canadian Financial Officers,

Association of Justice Counsel,

Canadian Association of Professional Employees and

Coalition of Ontario Teacher Affiliates Interveners

**Indexed as:** British Columbia Teachers’ Federation *v.* British Columbia

2016 SCC 49

File No.: 36500.

2016: November 10.

Present: McLachlin C.J. and Abella, Moldaver, Karakatsanis, Wagner, Gascon, Côté, Brown and Rowe JJ.

on appeal from the court of appeal for british columbia

*Constitutional law — Charter of Rights — Freedom of association — Right to collective bargaining — Province adopting legislation nullifying certain terms of public school teachers’ collective agreement and preventing similar terms from being renegotiated or included in collective agreement until specific date — Prior to adoption of legislation, teachers consulted by province and collective bargaining taking place but no agreement reached — Teachers challenging constitutionality of legislation — Trial judge declaring legislation unconstitutional for infringing teachers’ freedom of association and finding that province failed to consult in good faith — Majority of Court of Appeal allowing appeal, holding that legislation constitutional since consultations and collective bargaining leading up to legislation afforded teachers meaningful process in which to advance their collective aspirations, and that province consulted in good faith — Dissenting judge concluding that trial judge’s finding that legislation unconstitutional must be upheld, that trial judge made no appealable error in finding that province did not consult in good faith, and that infringement of freedom of association not justifiable — Canadian Charter of Rights and Freedoms, ss. 1, 2(d) — Education Improvement Act, S.B.C. 2012, c. 3.*

APPEAL from a judgment of the British Columbia Court of Appeal (Bauman C.J.B.C. and Donald, Newbury, Saunders and Harris JJ.A.), 2015 BCCA 184, 71 B.C.L.R. (5th) 223, 371 B.C.A.C. 204, 636 W.A.C. 204, 384 D.L.R. (4th) 385, 338 C.R.R. (2d) 270, 2015 CLLC ¶220-044, [2015] 9 W.W.R. 211, [2015] B.C.J. No. 825 (QL), 2015 CarswellBC 1113 (WL Can.), setting aside a decision of Griffin J., 2014 BCSC 121, 54 B.C.L.R. (5th) 286, 299 C.R.R. (2d) 106, 2014 CLLC ¶220-019, [2014] 3 W.W.R. 672, [2014] B.C.J. No. 91 (QL), 2014 CarswellBC 182 (WL Can.). Appeal allowed, Côté and Brown JJ. dissenting.

John Rogers, Q.C., *Diane MacDonald*, *Michael Sobkin* and *Steven Rogers*, for the appellant.

Karen A. Horsman, Q.C., Eva L. Ross and Keith Evans, for the respondent.

Kathryn Hucal, for the intervener the Attorney General of Canada.

Robin K. Basu, Rochelle S. Fox and Michael S. Dunn, for the intervener the Attorney General of Ontario.

Written submissions only by Caroline Renaud and Gabrielle Saint-Martin Deaudelin, for the intervener the Attorney General of Quebec.

Deborah Carlson, for the intervener the Attorney General of Manitoba.

Barbara Mysko, for the intervener the Attorney General of Saskatchewan.

Matthew Gapmann, Claudine Morin and Nathalie Léger, for the intervener Centrale des syndicats du Québec.

Steven Barrett and Ethan Poskanzer, for the intervener the Canadian Labour Congress.

Donald J. Jordan, Q.C., and Jeffrey W. Beedell, for the intervener the Canadian Association of Counsel to Employers.

Paul Champ and Bijon Roy, for the intervener the National Union of Public and General Employees.

Andrew Astritis and Andrew Raven, for the intervener the Public Service Alliance of Canada.

Colleen Bauman and Peter Engelmann, for the interveners the Professional Institute of the Public Service of Canada et al.

Paul J. J. Cavalluzzo and Adrienne Telford, for the intervener the Coalition of Ontario Teacher Affiliates.

The judgment of the Court was delivered orally by

[1] The Chief Justice — The majority of the Court would allow the appeal, substantially for the reasons of Justice Donald. Justices Côté and Brown would dissent and dismiss the appeal, substantially for the reasons of the majority in the Court of Appeal.

*Judgment accordingly.*

Solicitor for the appellant: British Columbia Teachers’ Federation, Vancouver.

Solicitor for the respondent: Attorney General of British Columbia, Vancouver.

*Solicitor for the intervener the Attorney General of Canada: Attorney General of Canada, Toronto.*

Solicitor for the intervener the Attorney General of Ontario: Attorney General of Ontario, Toronto.

*Solicitor for the intervener the Attorney General of Quebec: Attorney General of Quebec, Québec.*

*Solicitor for the intervener the Attorney General of Manitoba: Attorney General of Manitoba, Winnipeg.*

Solicitor for the intervener the Attorney General of Saskatchewan: Attorney General of Saskatchewan, Regina.

Solicitors for the intervener Centrale des syndicats du Québec: Barabé Casavant, Montréal.

Solicitors for the intervener the Canadian Labour Congress: Goldblatt Partners, Toronto.

Solicitors for the intervener the Canadian Association of Counsel to Employers: Harris & Company, Vancouver; Gowling WLG (Canada) Inc., Ottawa.

Solicitors for the intervener the National Union of Public and General Employees: Champ and Associates, Ottawa.

Solicitors for the intervener the Public Service Alliance of Canada: Raven, Cameron, Ballantyne & Yazbeck, Ottawa.

Solicitors for the interveners the Professional Institute of the Public Service of Canada et al.: Goldblatt Partners, Ottawa.

Solicitors for the intervener the Coalition of Ontario Teacher Affiliates: Cavalluzzo Shilton McIntyre Cornish, Toronto.