

“I WILL NOT GIVE YOU A PENNY MORE THAN YOU
DESERVE”:* *ONTARIO V. FRASER* AND THE
(UNCERTAIN) RIGHT TO COLLECTIVELY
BARGAIN IN CANADA

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This case comment first reviews the jurisprudence that most directly informed the Supreme Court's ruling in *Health Services*. Second, this case comment applies the logic underpinning *Health Services* to the facts of the case at bar. The general argument is that *Ontario v. Fraser* represents an inconsistent application of two concepts that are central to the understanding of collective bargaining that the SCC had elucidated in *Health Services*: the meaning of “good faith” and “substantial interference”. The comment concludes that *Ontario v. Fraser* has narrowed the right to collectively bargain to a greater degree than both proponents and opponents of *Health Services* might have anticipated.

Ce commentaire d'arrêt fait d'abord état de la jurisprudence ayant directement informé la Cour suprême dans sa décision *Health Services*. Ensuite, ce commentaire d'arrêt applique la logique sous-jacente de *Health Services* aux faits en l'espèce. L'argument général est que l'arrêt *Ontario c. Fraser* représente une application incohérente de deux concepts centraux, pour la compréhension du droit à la négociation collective, que la CSC a élucidés dans *Health Services* : le sens des concepts de « bonne foi » et d' « entraves substantielles ». Ce commentaire conclut que l'arrêt *Ontario c. Fraser* limite le droit à la négociation collective à un tel degré que tant les défenseurs que les opposants de l'arrêt *Health Services* n'auraient pu l'anticiper.

* Josh Finlayson & Andy Maize, “A Penny More” recorded by The Skydiggers, from the album *Restless*, (Toronto: FRE Records, 1992).

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