

Arbitration the only way out

EDITORIAL

WITH WHAT PASSES as its Christmas break not scheduled to end until February 18, the Ontario Legislature is not in a position to deal with the impasse between the Ford government and the province's four teachers' unions.

In the circumstances, it's rather strange that we have not heard calls from anyone for emergency sittings to deal with the problem, especially when we recall that Premier Doug Ford ordered an emergency session just one month into the government's four-year mandate to pass a law cutting the size of Toronto's city council almost in half.

Could it be that neither the governing Progressive Conservatives nor the New Democratic opposition are willing to look at arbitration, the only fair and realistic means of ending a battle whose main victims are the students?

As we see it, all unions see collective bargaining as the only fair means of achieving labour agreements, and governments that once favoured arbitration have come to see it as too costly and usually favouring the unions.

However, when you reach the point where there are no current plans for contract talks with any of the four unions and no one is willing to budge from their current positions, there is little reason to believe that the parties are capable of achieving a compromise.

Additionally, both sides are clouding the issue by failing to agree even on what the sticky points really are. Premier Doug Ford and Education Minister Stephen Lecce portray the dispute as mainly a money matter, with the unions wanting double the one per cent annual wage increases targeted by the government.

And with no negotiations currently taking place or planned, the unions' response has been escalating job actions, with one-day strikes and a refusal to do such things as fill out full report cards and supervise extra-curricula activities.

One point everyone should agree on is that any form of job action by teachers, while supposedly against the employer, is inevitably going to have students and their parents as the victims.

In the circumstances, we think the only issue should be what type of arbitration is the most appropriate means of achieving a just resolution.

One option would be to give the arbitrator the relatively simple task of choosing between the final positions of the two parties.

In such a complex matter, 'final choice' arbitration would inevitably leave one side more than a little disappointed.

The other option would see the dispute resolved by someone with an unimpeachable background and/or unchallenged experience in arbitrating complex issues.

In this case, two persons might fill the bill. If the parties preferred someone with long judicial experience, they might consider John I. Laskin, son of former Chief Justice Bora Laskin, who retired in 2018 from the Ontario Court of Appeal.

But if they wanted someone with long and successful experience as an arbitrator they could choose George W. Adams, who left the Ontario Superior Court in 1997 to found ADR Services Ltd., a Toronto-based firm offering Alternative Dispute Resolution.

Should either course require provincial legislation, the new law should give the arbitrator a period of 30 days during which he or she could make a final attempt at mediation. If that failed (as it most certainly would), he or she should ask the parties to codify their final positions.

While the arbitration might well involve increasing the government's 2020-21 budget beyond what is currently planned, it would also give the government an opportunity to postpone its promised budget-balancing exercise.

And it would cut the cost involved in promising up to \$60 a day to parents for daycare costs forced upon them by the rotating strikes.