

**Putting the 'Public' Back into Public Sector Labour Relations: A Public Interest Dispute  
Resolution Commission for the Federal Public Service**

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## **The Public Sector: An Industrial Relations Battleground**

One need not be an industrial relations expert to be aware that something is seriously wrong with labour-management relations in Canada's public sector. These days, it seems it's hardly possible to open one's morning paper or tune in to a CBC newscast without hearing about yet another public sector labour dispute.

In the province of Ontario, a bitter, 54-day strike by the Ontario Public Service Employees Union ended May 5 with the ratification of a tentative agreement between OPSEU and the Ontario provincial government. Even if as many as a third of the union's 45,000-odd members were designated essential and thus unable to withdraw their services, the eight-week strike will have resulted in the loss in well over a million person-days of work—or nearly as many as were lost across Canada in all disputes during the year 2000 (*Workplace Gazette*, 2002:33).<sup>1</sup>

While the OPSEU strike was one of the biggest public sector disputes (in terms of person-days lost) in Canadian history, it was but one of many conducted over the past year or two. In New Brunswick, for example, emergency medical technicians employed by the Southern Victoria Ambulance Service returned to work March 28 of this year, after a strike that lasted almost a year (CUPE NB News, 2002(March 28)).<sup>2</sup> Nursing home workers, who carried out a province-wide strike last summer, saw the provincial nursing home budget increase by almost 8%—very possibly as a result of their walkout (CUPE NB News, 2002 (March 27)). Elsewhere in the province, the veterinarians, engineers, and agricultural scientists represented by the Professional Institute moved a step closer to a strike with the failure of conciliation on April 25-26 of this year (PIPSC NB Group News, 2002 (May)). Meanwhile, frustration at the slow pace of contract negotiations has led thousands of social workers and other front-line professionals to take to the streets in a demonstration against the provincial government (CUPE NB News, 2002 (May 13)).

During the year 2001, the same story could have been told pretty well all across the country. The year saw a cross-country wave of health care disputes extending from Nova Scotia to British Columbia. In Newfoundland, a strike by provincial government employees led to the withdrawal of such essential services as snow removal from highways, until the union relented

amid fears that lives would be lost in a winter blizzard, and allowed some of the snowplows back on the highways. There was also a wave of public transit strikes in Calgary and various B.C. cities (including one in Vancouver that lasted four months), while in Ottawa, a lengthy strike by the union representing “Para Transpo” employees led to the withdrawal of all but emergency transportation services for the disabled. In Toronto, a strike by school maintenance workers and other support staff eventually forced schools to close for sanitary reasons until the provincial government finally legislated an end to the dispute.

At the federal level, there was a wave of one-day federal public service strikes conducted by the Public Service Alliance, which also staged lengthy full-scale walkouts at two federal museums in Ottawa. Had it not been for the terrorist events of Sept. 11, 2001, the Alliance would almost certainly have mounted its first service-wide strike since 1991 (Peirce, 2002:253). Later, the fourth quarter of the year saw major strikes against the CBC and La Commission Scolaire de Montréal (*Workplace Gazette*, 2002(spring):31).

The prospects for the foreseeable future don't look much better. It is difficult to see how major conflict can be avoided in B.C., where the newly-elected Liberal government announced, in November of last year, cuts to the public service amounting to one-third of the work force over the next three years (Peirce, 2002:267). These cuts come hard on the heels of the passage of Bill 18, which enables the Labour Minister to direct the Labour Relations Board to designate education as an essential service without waiting for an investigation, thus severely restricting teachers' right to strike (Lancaster House, 2001, 25:7/8), and of legislation ending an overtime ban by the province's nurses (*ibid.*). In Ontario, the outgoing Harris government's imposition of legislation and severe restrictions on the interest arbitration process have led to a series of pitched battles with the province's public schoolteachers and education support staff, battles which don't seem likely to end any time soon (Rose, 2002:123). Meanwhile, in Quebec, there is likely to be an equally bitter legacy from Radio-Canada's lockout of its journalists, which began March 23 and has not only deprived Quebecers of news coverage but forced them to watch silent hockey games, without reporting or colour commentary, in a year in which the Montreal Canadiens, for

the first time in a number of years, advanced to the second round of the Stanley Cup playoffs.<sup>3</sup> Recent developments in this dispute, including most notably the union's narrow rejection of the management's "final" offer on May 15, do not point toward an early settlement (Benessayeh, 2002).

### **Some Possible Explanations**

It would be an exercise in futility to attempt to isolate any single or simple cause for such a broad range of disputes as those listed in the preceding paragraphs. Still, if we look at the situation in the public sector as a whole, certain commonalities do emerge. To begin with, most Canadian public sector workers have experienced a substantial erosion in real purchasing power over the past decade or so, owing mainly to government-imposed wage freezes (or in some cases wage rollbacks) and suspension of normal collective bargaining (see Peirce, 2000:462). Second, there is far less job security in the public sector than in the past, due to a nation-wide wave of downsizing and restructuring. Third, workloads have increased, owing largely to the aforementioned downsizing and restructuring, so that public sector workers have been forced to work longer and harder at the same time they have seen their real incomes reduced. Fourth, and perhaps most important for present purposes, public sector workers' bargaining rights have been substantially reduced.

Governments' restrictions on public sector workers' bargaining rights have taken a variety of forms, from the outright suspension of bargaining and imposition of wage freezes and rollbacks to the suspension of interest arbitration, or, alternatively, the imposition of such rigid restrictions around the interest arbitration process as to amount to a virtual pre-determination of the results of that process (see Rose, 2000 and 2002). In some cases, such large a proportion of the bargaining unit has been designated as essential that it would be impossible for the union to conduct an effective strike. Larry Haiven (1995) cites an instance where, during a 1989 hospital strike in B.C., 110% of one hospital's nursing complement was designated as essential!

### **Nothing New**

It's important to bear in mind that restrictions on public sector workers' bargaining rights have not been confined to times of economic crisis. In 1991, when the federal government froze its employees' salaries, it was facing a severe recession, and its deficit was over \$30 billion. But in 1999, when it extended for a further two years its 1996 suspension of public service interest arbitration, the economy was in the healthiest condition it had been in for a decade, the deficit having turned into a \$12 billion surplus. A year later, in his economic statement and budget update, the Finance Minister would boast that the country's current account was "in the largest surplus position in its history" (Martin, 2000), while the Prime Minister would boast, "We are better positioned than at any time in the last three decades to seize the opportunities of the global economy" (Chrétien, 2000). Clearly, by this time it was no longer a question of the government's not being able to afford to pay its employees more; it was a question of its choosing not to pay them more, in order to meet other priorities. At least in part, the recent wave of public sector disputes may be thought of a result of the low priority Canadian governments appear to have put on maintaining good relations with their employees.

It should also be noted that while the federal government and the provinces undoubtedly restricted public sector workers' rights more severely during the 1990s than they had during the three previous decades, such restrictions were far from new. As early as 1978, during a round of postal negotiations, the federal government passed legislation extending the postal workers' contract until after an upcoming federal election (Swimmer, 1995). During the 1980s, the pace of restrictions increased significantly. After a 1982 Supreme Court of Canada decision to the effect that the government had the sole right to determine the level of service to be provided (Swimmer, 1995; Peirce, 2000), the proportion of federal government employees designated as essential increased sharply. At about the same time, the province of Quebec was rolling public sector workers' salaries back by about 20% (Hébert, 1995), the province of Alberta was removing its hospital workers' right to strike and ordering arbitrators to take the government's ability to pay into account in fashioning public sector arbitration awards (see Haiven, 1995), and the province of

British Columbia not only imposed a wage freeze but cut its employment levels by 25% (Thompson and Ponak, 1992).

### **Collective Bargaining if Necessary, But Not Necessarily Collective Bargaining. . . .**

Overall, it must be said that although all Canadian jurisdictions have permitted their own employees and other public sector workers to engage in collective bargaining at least since the 1970s, Canadian governments' acceptance of collective bargaining for these workers has generally been grudging and half-hearted. Except in Saskatchewan, which puts its own employees under the general labour act, the range of issues over which government employees and other public sector workers are permitted to bargain is generally far narrower than it is for private sector workers. Up until now, for example, the *Public Service Staff Relations Act* (hereafter *PSSRA*) has prevented collective bargaining over any subject for which parliamentary legislation would be required, except for the appropriation of funds (Fryer, 2000:14). Specifically, this has meant that federal government employees have been unable to bargain over the criteria for appointments, promotions, layoffs, job classifications, and technological or organizational change. They have also been unable to bargain over their pensions (ibid.). Most provincial acts are only slightly more liberal than the *PSSRA* with respect to the scope of bargainable issues (Peirce, 2000:338). While many do allow bargaining over technological and organizational change (Swimmer, 1995:372), most prohibit bargaining over employee training programs, appointments, and promotions (Fryer, 1995:345). As has often been noted (see, among others, Ponak and Thompson, (1995:431)), such severe restrictions on the scope of bargaining hinder the bargaining process by creating frustration on the part of public sector unions, thereby preventing trust from emerging. The restrictions have also contributed to the politicization of public sector bargaining (see Fryer, 2000:37), and have led certain bargaining agents, especially in the federal public service, to carry out various types of direct political action, including public demonstrations and election campaigns against the government's candidates (ibid.).

Nor has restricting the scope of bargaining been the only tool governments have used against public sector unions. In addition to making it more difficult for these unions to go on

strike than it is for private sector unions, Canadian governments have not hesitated to use back-to-work legislation to end public sector strikes. Between 1950 and 1993, they resorted to such legislation on 62 occasions, 50 of them between 1975 and 1993 (Ponak and Thompson, 1995:440). There is little sign that the pace of back-to-work legislation has abated since then.

Most important of all, Canadian governments have frequently suspended collective bargaining altogether for their own employees and other public sector workers. During the 1990s, public sector collective bargaining was suspended in so many jurisdictions that it became the exception rather than the rule (Peirce, 2000:317), even though a recent study (Swimmer, 2000) has demonstrated that those few jurisdictions which did continue public sector bargaining fared about as well economically as those which achieved their fiscal objectives primarily through legislation.

In the federal public service, the first Fryer Committee report (Fryer, 2000) found that the suspension of collective bargaining and, later, of interest arbitration were among the major sources of frustration with the public sector unions. Indeed, both union and management respondents to a template questionnaire administered by the Fryer Committee (Fryer, 2000:31) cited the suspension of bargaining and arbitration, together with the imposition of pay freezes and use of back-to-work legislation, as major factors leading to a deterioration of labour-management relations and a loss of trust between the parties in the federal public service. Frustration over the lack of an effective dispute resolution mechanism has been particularly great in those bargaining units which have had a large proportion of their members designated as essential and are thus unable to mount an effective strike. The suspension of interest arbitration has meant that, in effect, those units have no meaningful dispute resolution mechanism at all, and are therefore subject to unilateral government determination of the terms and conditions of their employment (Fryer, 2000:40).

No one could seriously suggest that it is desirable to have a situation where large numbers of government employees and other public sector workers are on strike at any given time. While the recent wave of privatization and reinvention of government has meant that in some cases there

are other ways to obtain services normally provided by the public sector, there are still many situations in which there is no readily available substitute for those services (see Gunderson and Reid, 1995:158). The wave of public transit strikes that occurred in 2001 (see Peirce, 2002) undoubtedly resulted in serious inconvenience for many, and real hardship for at least a few people. So, too, have the ongoing labour disputes that have been taking place in Ontario's public education system throughout most of the past five years.

All this is to say that it is almost certainly not in the public interest to have a situation in which public sector strikes are frequent or lengthy. But by the same token, banning public sector strikes or using other means such as back-to-work legislation or suspending bargaining to restrict public sector workers' rights is also not in the public interest. In this connection, consider the situation of the federal government. Facing large numbers of potential retirements over the next few years, it will need to hire large numbers of talented young Canadians, while keeping as many as possible of the dedicated and experienced older workers it already has. And it must do all this at a time when the pool of young Canadians from which it must draw is growing ever smaller (see Fryer, 2001:11).

### **Recruitment and Retention Challenges**

For the foreseeable future, the federal government will be facing stiff competition, particularly for professionals and other highly-skilled workers, from both the private sector and other public sector employers. Restricting employees' collective bargaining rights and continuing to embrace an adversarial approach to labour-management relations will do little to help the government attract—or retain—these kinds of talented, dedicated people.

Over the past year, since the release of the second Fryer Committee report, the lack of an effective and meaningful public service dispute resolution system has come to loom particularly large. There is real anger on the part of a number of public service unions that they must take their members out on strike in order to get their dispute with the government resolved. Many public service union members consider this a sign of the government's fundamental lack of respect for its employees. In its submission to the Quail Task Force on Modernizing Human Resources

(PIPSC, 2001), the Professional Institute of the Public Service of Canada (hereafter the Institute) described the status quo with respect to public service bargaining as dysfunctional and the limited collective bargaining rights now available as unacceptable. In this, the Institute undoubtedly speaks for other public service unions.

### **What's Wrong with COP**

It may be that the government, which in 2001 did not renew its two previous suspensions of interest arbitration, will allow the choice-of-procedures (COP) mechanism established in the *PSSRA* to function as it did in the past. That would certainly be an improvement on the current situation with respect to public service dispute resolution. But there are still a number of problems with this approach. Most notably, the bargaining agents must choose between arbitration and the traditional conciliation-strike route at the start of negotiations. Particularly in cases where the union has opted for arbitration, this “tips the hand” early enough to influence the employer’s strategy, very possibly discouraging it from engaging in serious bargaining. Indeed, there is the risk that neither side will bargain seriously, in the belief that there is little need to make choices that may be unpalatable from an internal political perspective when the arbitrator will be making the final decision in any case (Fryer, 2001:31).<sup>4</sup> An even more fundamental question is whether the government would allow “free” arbitration to take place, or would rather constrain the process to ensure that decisions were to its liking, as has increasingly been the case in Ontario (Rose, 2000 and 2002).

All in all, the problems which the Fryer Committee observed around the existing federal public service dispute resolution mechanism were serious enough that it decided, rather than tinker with the existing mechanism, to come up with a new one, a Public Interest Dispute Resolution Commission (hereafter, PIDRC). While the PIDRC would take away neither the unions’ right to strike nor the government’s right to use legislation to intervene in public service labour disputes, we believe it would make both of these options generally unpalatable. Above all, the PIDRC would protect the public interest, by providing a neutral forum above the political fray for the resolution of public service labour disputes.

Admittedly, it is a difficult task to strike a balance between protecting the public interest by minimizing disruptive public sector disputes while at the same time preserving government employees' right to strike. Nonetheless, we believe that the Advisory Committee has managed to do just that in its recommendation for a Public Interest Dispute Resolution Commission. The rest of this paper is devoted to describing the proposed Commission and explaining how it would work.

## **THE PIDRC: A NEW MODEL**

### **Genesis of the Commission**

The original idea for a public interest dispute resolution commission came from a proposal for a similar commission in the 1968 Woods Task Force Report on Industrial Relations. A great deal of time need not be spent on the particulars of the Woods proposal, except to note that an important element of that proposal was the potential for the commission to use a broad range of techniques in solving disputes, including “conciliation and mediation, non-binding arbitration, voluntary binding arbitration, involvement of the . . . Commission itself, special industrial inquiry including the functions of fact finding and making recommendations, postponement of work stoppage, and special bargaining or consultative procedures” (Woods, 1968:171). The possible use of a broad range of techniques in resolving disputes is an issue to which we shall return later in the paper.

One other element of the original Woods proposal bears at least brief discussion. That is the extremely thoughtful treatment of the subject of “the public interest” which appears at the beginning of the proposal for a public interest dispute commission. As the Woods Report saw it, the public interest in collective bargaining has three competing elements. First, the public “has an interest in the system of collective bargaining as an instrument for the pursuit of social and economic justice and progress in an industrial society.” Second, the public has an interest in the results of collective bargaining “as they affect the distribution of resources in the labour market and as those results relate to and are reconciled with a host of other competing policies.” Third, “even though the right of recourse to economic sanctions is an integral part of a normal collective

bargaining system, the public has an interest in being protected from the hardship caused by work stoppages which interrupt the supply of essential goods and services” (Woods, 1968:169). Further, the Woods Report recognized that “These three public interests are at best in a condition of uneasy balance, and not infrequently. . .in a state of disharmony” (ibid.). In addition, while the need to maintain essential services might be paramount, it would be important to maintain those services “in a manner that does least violence to the integrity of the system and to the fundamental values on which the validity of collective bargaining is based” (ibid., 169-170). This need to strike a balance between maintaining essential services and being true to the core values on which collective bargaining is based is also an issue to which we shall be returning later in the paper.

### **General Principles of the Proposed PIDRC**

In its work, the PIDRC should be guided by the following fundamental principles (see Fryer, 2001:34-5):

The desirability of promoting harmonious labour-management relations in the public service;

The recognition of the rights of public service workers to associate freely and bargain collectively, including the right to strike;

The recognition of the importance of a competent and efficient public service to Canadian citizens;

The necessity for the public service to offer compensation and other terms of employment comparable to those offered by private sector and other public sector employers; and,

An awareness of the current state of the economy and the government’s fiscal circumstances.

In connection with this last point, we believe that the PIDRC should have the authority to obtain information on economic conditions and labour markets. Assuming that another of the Fryer Committee’s recommendations were adopted, it could obtain this information from a Compensation Research Bureau, as well as from sources that currently exist (Fryer, 2001:35).

### **Composition of the Commission**

We believe that representativeness is critical to the PIDRC's success. Without it, the Commission will not be fully accepted by all the parties. That is why we propose that at least three of the Commission's part-time members (of whom there would be a minimum of nine in all) be drawn from lists submitted by the employer and the same number drawn from lists submitted by the unions. The remaining neutral members would be individuals experienced in public sector labour-management relations and would represent the public interest (Fryer, 2001:33). The Chair, who would serve on a full-time basis, should be a highly experienced and respected individual with a national reputation in the field of public sector labour relations. Both the Chair and the part-time members would be appointed for fixed, renewable terms by the Governor-in-Council. The Commission would be assisted in its work by a small full-time secretariat (Fryer, 2001:33).

### **Independence and Reporting Relationship**

Clearly, any public interest dispute commission must be independent of the day-to-day political process if it is to maintain credibility with all the parties and function effectively. Concerns about a potential loss of independence from the political process were the main reason why the Fryer Committee did not, finally, recommend putting the public service under the dispute provisions of the *Canada Labour Code*, an option that it initially considered.

In connection with this last point, it is important to bear in mind that the Canada Industrial Relations Board, which administers the *Canada Code*, ultimately reports to the Minister of Labour. Because the Minister is a member of Cabinet, he or she therefore clearly belongs to the "employer side." Under existing rules of Cabinet solidarity, this fact alone prevents the Minister from being a disinterested observer who is above the fray in disputes involving the government and its own employees (Fryer, 2001:31). Political independence would also be maintained by having the PIDRC report directly to Parliament (Fryer, 2001:33).

One could also fairly ask whether an essential services mechanism established for the resolution of private sector disputes in profit-making organizations is appropriate for the resolution of disputes in government agencies and departments, where a profit is not

contemplated and the collective bargaining calculus is thus primarily political rather than economic. While the disputes which would fall under the *Canada Code*'s essential service provisions, such as those involving the airlines and railways, do have a substantial public interest component to them, the *Code*'s provisions do not appear to us to take sufficient account of the special nature of public service disputes, nor of the role of the general public in those disputes.

### **How the PIDRC Would Work<sup>5</sup>**

Like the Woods public interest commission on which it is modelled, the PIDRC would have a broad range of remedies available to it to assist the parties in resolving interest disputes. These would include fact-finding, referral back to the negotiating table, mediation, issuance of a preliminary report commenting on the reasonableness of the parties' positions, and issuance of a report outlining the terms of a settlement that could be adopted by or imposed on the parties (Fryer, 2001:34). The idea behind this broad array of techniques (the 'toolkit' approach) is to introduce an element of surprise, since, as is not now the case under COP, the parties to a dispute would not know in advance which technique or techniques the Commission would select. This in turn makes it likelier that the parties would choose to fashion their own settlement rather than relying on the PIDRC, which might well use a technique either or both did not like. Referral to the Commission would be mandatory when an impasse in public service collective bargaining occurred.

The PIDRC could offer fact-finding services with an eye to showing the parties new possibilities for the resolution of differences. If it concluded that the parties hadn't bargained enough, it could refer the dispute back to them, with or without mediation assistance provided by the Federal Mediation and Conciliation Service.

If the parties remained deadlocked, the PIDRC could investigate the dispute thoroughly and issue a detailed report containing recommendations for settlement. It would accept and take into account the parties' representations, but would not be bound by them. It would also not be bound by its own previous decisions, confining itself to an analysis of the dispute currently before it. However, it would take into account representations and research on environmental factors—

such as new economic conditions or private sector wage rates and occupational availability rates—that might suggest a need for a settlement departing from recent settlements.

In any given situation, the Commission might conclude that one party was being unreasonable and that the other's position should therefore prevail. Alternatively, its report could seek to strike a balance between the two positions or introduce a package consistent with practices in other jurisdictions.

The parties would have a limited period of time to review the Commission's report before it was made available to the public. They would then be required either to accept or reject the report. The following are the possible outcomes of this process:

Both parties accept the Commission's report, which forms the basis of the new collective agreement;

Instead of accepting the report's recommendations, the parties return to the bargaining table to work out a settlement within the constrained time frame;

The union rejects the report and proceeds with job action; or

The employer rejects the report and the union applies to the PIDRC to have the report's recommendations imposed.

### **Making the Report Public**

A key element of the recommendation for a public interest dispute commission is the requirement that the PIDRC make its report available to the public within two weeks after issuing it to the parties. Publicizing the report would make for a more open process, since it would ensure that if either party chose to reject the Commission's recommendations, there would be public pressure to demonstrate why the Commission's report was unacceptable when compared to their own positions.

Nonetheless, an impasse could still be reached. For example, a bargaining agent might be dissatisfied with the recommendations, but be unable to exercise meaningful pressure on the employer because of the high proportion of its members who had been designated as essential. Since the right to strike would effectively have been denied to the members of such bargaining

units, they should have the unilateral right to request imposition of the Commission's award. While the Commission would not be required to agree to the bargaining agent's request, it would presumably give careful consideration to the special circumstances of the employees in those bargaining units.<sup>6</sup>

A second possibility for continued impasse would exist when the employer rejected the Commission's report. If the employer were determined to avoid implementing the report, it could request the government to pass special legislation ending the dispute or even imposing the terms and conditions of the new agreement. Indeed, it would not be possible to strip the government of the right to impose legislation ending public service labour disputes, since doing so would be a violation of the fundamental principle of parliamentary sovereignty. But we believe that such drastic action would be extremely rare, since it would amount to a rejection of the PIDRC's considered judgement and could expose the government to harsh criticism or even ridicule.

The Fryer Committee recognized that public service unions facing determined employer resistance have few options. While a union could go on strike, many public service bargaining units have only limited ability to apply meaningful strike pressure on the employer. Those bargaining units that do have the power to exert meaningful pressure on the employer or general public are the ones most likely to face the imposition of ad hoc back-to-work legislation by Parliament.

We believe that the bargaining agent should have the right to request imposition of the Commission's report. But we also believe that the Commission should have the power to accept or reject the bargaining agent's request. Uncertainty as to the Commission's response to a bargaining agent's request along these lines would provide further incentive to the parties to settle the dispute themselves. If the Commission did agree to the bargaining agent's request, its report would serve as a final and binding resolution to the dispute in question.

### **Conclusion**

We believe that with a Commission along the lines of the PIDRC in place, it would be more difficult to arrive either at a point where unions believe a strike is the only option, or where

politicians believe that they have no choice other than to resort to legislation to end a public service strike, impose a settlement, or suspend collective bargaining rights.

One reason why we think a PIDRC would reduce both strikes and the government's resort to legislation is that the uncertainty generated through the proposed "toolkit" approach to dispute resolution would induce the parties to work out their own settlement in the vast majority of cases, rather than risk the imposition of a technique either or both might not like. Another reason is the embarrassment (and, especially in the case of the government, possible negative political fallout) that could result once it became known to the general public that either or both parties had rejected a Commission report.

An effective and mutually acceptable mechanism for resolving public service bargaining disputes is a key element of the collaborative approach put forward by the Fryer Committee in its final report. Putting a mechanism like the proposed PIDRC in place would help the government go a long way toward improving its relations with its unions, and creating a climate more conducive to recruiting and retaining bright, dedicated people in the public service. If, on the other hand, the government fails to implement an effective dispute resolution mechanism, its prospects for improving public service labour-management relations appear slim at best.

## Endnotes

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<sup>1</sup> In 2000, according to the *Workplace Gazette* (see Table 5), 1,661,620 person-days of work were lost in 319 disputes across Canada.

<sup>2</sup>. The New Brunswick EMTs' story was obtained from the following CUPE web site:

<http://www.cupe.nb.ca/news.htm>. Except where otherwise noted, other New Brunswick items

described later on in the same paragraph have been obtained from the same web site.

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<sup>3</sup>. Information on the lockout and on a petition sent to CBC management protesting against the lockout was obtained from the following web site: <http://www.scrc.gc.ca/docs/petition.html>.

4. As most readers will be aware, we are referring to the “chilling” effect of arbitration here.

5. Except as otherwise noted, material in the next two sections has been drawn from Fryer (2001:34-7).

6. In Newfoundland, public service labour legislation allows provincial government and hospital employees to demand arbitration if more than 50% of a bargaining unit is designated as essential and thus prohibited from striking. The PIDRC option described in the text is similar in spirit but not identical, since it stops short of making arbitration mandatory in such circumstances.

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