

# History Shows It's Folly to Ban Strikes

BY LARRY HAIVEN AND JUDY HAIVEN

Recently two provincial governments used the power of the state to suppress public sector strikes. Not only did British Columbia and Newfoundland and Labrador make legal strikes illegal, they also dictated terms of settlement on the workers through legislation. Such actions are part of a remarkably short-sighted and even dangerous trend.

Plus ça change, plus c'est la même chose, as they say. Since long before trade unions, workers have fought to improve their wages and working conditions – and employers and governments have tried to keep them from doing so. Inevitably, and too late, the powers that be learn that it is more sensible and prudent to regulate industrial conflict than to prevent it. For example...

The year is 1351. England has emerged from the Black Death plague with a third of its population depleted and a serious labour shortage. Following the laws of supply and demand, labourers try to press their advantage, demanding a boost in their miserable wages. King Edward III bows to the demands of landlords and issues a *Statute of Labourers* because “servants...will not serve unless they may receive excessive wages.” The Statute declares that:

- Wages are frozen to pre-plague levels
- Any worker leaving the service of his lord will go to prison
- Employers who pay more will be fined heavily
- Anyone giving alms to the poor will be imprisoned

In 1380, Edwards's successor, Richard II not only continues the hated Statute but imposes a “poll tax” (a flat tax that hits the rich and the poor equally.) As a

result of these provocations, the famed Peasants' Revolt breaks out. Workers march through the south of England and eventually on London, destroying property, killing many rich people and capturing the Tower of London. They force the King to promise that peasants will no longer have to work for their landlords and that all rebels will be pardoned.

Though the ringleaders are later rounded up and executed and the immediate promises are revoked, landowners and rulers have received a very unpleasant shock and the regime changes. The poll tax is removed, wages are allowed to rise and many more peasants become free labourers. Indeed, this marks the beginning of the end for feudalism in England. But memories fade quickly and the lessons of the past need to be learned over and over again.

Just last May, impending back to work legislation forced 20,000 Newfoundland and Labrador public service workers to end a 27-day strike. But the Government still imposed its settlement on them in a four-year collective agreement with a wage freeze in the first two years and a cut to their sick-leave plan.

The Campbell government in BC went even further, rolling hospital employees wages back by 15%, lengthening the work week and allowing contracting-out of jobs to the private sector. For the second time in twenty years, the province was on the brink of a general strike. Even a last minute “agreement” could not mask the Draconian nature of this government's actions and the bitter pill the workers had to swallow.

Both governments threatened massive punishments, including dismissals and huge fines for the unions and their members, for those who defied the edicts. →

The governments have sent a powerful message to trade unions, one which will have ominous future repercussions: You can negotiate all you want, but when push comes to shove, unless you agree to what employers want, we will bring the full force of the state against you and impose what employers want.

Although the BC's settlement terms are especially vindictive and nasty, the governments of BC and Newfoundland and Labrador are by no means the first in Canada to use these methods. Since 1999, the governments of New Brunswick, Nova Scotia, Quebec and Saskatchewan, across the political spectrum from Conservative, through Liberal and NDP, have done the same. (The Saskatchewan government seems to have learned its lesson in 1999 and has since patiently weathered two large health care strikes without intervening.)

when governments beat up on health care workers in order to pay for tax cuts to the rich.

Traditionally there have been three models of handling industrial conflict in health care. A few governments have no special legislation banning strikes or imposing emergency service provisions. Some others allow strikes but impose stringent controls on how many workers can be off the job (sometimes foolishly insisting on more coverage during a strike than in normal times.) Still other provinces ban strikes in health care entirely and substitute binding arbitration to resolve disputes.

Historically, even in jurisdictions where strikes are not illegal, governments have occasionally become impatient or convinced themselves prematurely that a

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Health care workers across the country have good cause to rebel. Their real wages (after inflation) have often declined. Their employment security has eroded or disappeared and they have watched their cohorts shrink. Their work has intensified as the needs of in-hospital patients have become more acute.

Those in less skilled positions are especially vulnerable as employers move from a hospital model of employment to a hospitality model, treating employees not as members of a health care team but like seasonal hotel and restaurant help. In addition, more and more union members are rejecting agreements that their unions have negotiated.

Worker rebellion taps into deep public unease about the future of Canadian health care and can elicit great sympathy. People are increasingly suspicious

public emergency exists. They have used their powers to pass ad hoc legislation to ban the strike. Up until recently, such strike ban legislation has substituted arbitration, which means a third-party decides on a fair settlement.

What makes recent cases so different and so dangerous is that governments are bypassing the arbitration route and writing the terms of settlement into the legislation. As much as they deny it, when this happens again and again, Canadian governments are, for all intents and purposes, rendering collective bargaining dead.

Canada and other industrialized countries introduced modern collective bargaining legislation in the mid 20th century because they had learned from history that, given appropriate conditions, workers would →

strike whether or not they were “allowed” to by law. Even when unions themselves were illegal and strikes were met by troops and machine guns, workers would still resist. Modern governments figured it better to legalize strikes and institutionalize collective bargaining, tolerating and even encouraging occasional strikes rather than bottle up worker resentment until it bursts forth in even greater measure.

For a while, some sort of industrial democracy prevailed. But for the past decade at least, Canadian governments have favoured a program of tax cuts, program cuts, and wage cuts. These governments do not have the requisite patience to allow collective bargaining to work and are once more resorting to the rule of force to compel public sector employees to move backwards.

But health care and public service workers have shown in more recent years that they will defy strike bans if sufficiently angry and frustrated. To mention just a few cases: Ontario health care workers walked picket lines for eight days in 1981 despite fines, dismissals and the jailing of their leaders. Saskatchewan

nurses stayed on strike illegally for ten days in 1999. Alberta licensed practical nurses and others did so in 2000 until they achieved a better settlement. Nova Scotia and British Columbia nurses threatened mass resignations in 2001.

To take history as our guide, even a decision by workers to back down under massive pressure does not guarantee that mass civil disobedience will not break out at another time and another place, just as it did in 1381. ○—

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