

A SUMMER OF DISCONTENT: COLLECTIVE BARGAINING IN THE PUBLIC SECTOR

BERNARD HYAMS

York District Board of Education, Toronto, Ontario, Canada

ABSTRACT

The following article focuses on collective bargaining and the public sector in Canada. A literature review of recent scholarly research is included. Selected topics include: the role of chief negotiator, negotiating styles, criticisms of traditional collective bargaining procedures, and alternatives to traditional collective bargaining. A case study is included to create a bridge between theory and practice. The Quebec nurse's strike is used as an application of current theory. The flight attendant strike at Air Canada is used to contrast public and private sector bargaining. The article concludes by comparing working conditions in the United States and Canada. The author recommends that integrative bargaining may yield better results than traditional collective bargaining.

Conflict is an unavoidable aspect of human relations. It is visible in the elementary school playground, throughout world history, and in the workplace. This article analyzes collective bargaining in the public sector, specifically the negotiation process. Although collective bargaining often conjures up images of blue-collar professions, this is no longer the economic reality. Various white-collar professionals such as teachers, nurses, and pharmacists are struggling to maintain their position in society through collective bargaining.

The article examines the theoretical and structural foundations of collective bargaining. A review of recent scholarly research and a case study focusing on the Quebec nurse's strike are included. As well, the Air Canada flight attendants' strike is analyzed to compare collective bargaining in the public and private sector.

LITERATURE REVIEW ON COLLECTIVE BARGAINING

Many academics have explored the issue of collective bargaining in the public sector. Collective bargaining is defined as “a process by which union representatives for employees in a bargaining unit negotiate employment conditions for the entire bargaining unit” [1, p. 12]. The union and management executive are under pressure to negotiate an agreement that will satisfy their members. The actions of a few individuals have far-reaching repercussions for thousands of employees.

The Role of the Chief Negotiator

The role of the chief negotiator is central to a successful negotiation and the performance of the chief negotiator can make or break a deal. “Chief negotiators are uniquely positioned to affect the level of collective bargaining conflict because of their roles as external representatives and information processors during negotiations” [2, p. 146]. Research has revealed that a negotiator’s strategy and personality characteristics affect the outcome.

The Selection of the Chief Negotiator: Management Perspective

The selection of the chief negotiator often evolves with the development of the collective bargaining process in public sector departments. For example, when collective bargaining first begins in a city, bargaining responsibility is often assigned to the budget director, personnel director, or other staff officials [2]. These negotiators are not executives and are constrained in their negotiating positions. For this reason, they often have difficulty competing with executive-level union negotiators.

As municipalities develop, the role of the chief negotiator also changes. As experience in the bargaining process accrues, “bargaining authority is transferred from staff officers to labor relations specialists” [2, p. 147]. In small cities, outside consultants are hired. In larger cities, in-house labor specialists are added to the staff.

The choice of chief negotiator has important consequences. A poorly negotiated contract can lead to costly mistakes in terms of salary and benefits. In addition, “a chief negotiator can influence the level of conflict that exists in the collective bargaining process, and the likelihood of an impasse” [2, p. 147]. The driving forces in the process are character and personality traits.

A major factor is the negotiator’s position in the work hierarchy. According to Perry and Angle: “As the management negotiator’s role is positioned higher up the organization ladder, their interest are focused on the organization’s central functions, than on the function of the organizational sub-unit” [3, p. 490]. The implications are that when chief administrative officers are negotiating, they will not feel as pressured to prove their loyalty to management. However, when human

resources managers are negotiating, they are under increased pressure to perform and prove their value to management. For this reason, there is greater likelihood of conflict and hard-line positioning when the chief negotiator has a lower position in the corporate hierarchy.

The Selection of the Chief Negotiator: Union Perspective

The selection of the union's chief negotiator often contrasts with management selections. "The general practice within public employee unions is to decentralize decision making about collective bargaining to the local union level. Responsibility is vested in municipal councils rather than in national union representatives" [4, p. 52]. This creates a labor context where the union negotiator for the public sector is often psychologically close to his/her constituents. For example, a union negotiator in an educational or hospital setting would be a former professional whose professional duties are temporarily transferred from working professional to short-term union leader.

Strategy: Distributive and Integrative Bargaining

Behavioral research has revealed that a negotiator's strategy, experience, gender, and personal characteristics affect impasses. Furthermore, there are two main types of bargaining: distributive and integrative. The distributive model views negotiating as a win/lose scenario, where a fixed amount of resources is divided up among the players. Integrative bargaining aims for a win/win solution. It consists of trade-offs to solve problems with benefit to both sides [5]. Therefore, distributive bargaining leads to heightened conflict, and integrative bargaining leads to a reduced amount of conflict.

Negotiator Experience

Research reveals that a strike is more likely with new negotiators. This is partly due to a lack of protocols or established behavior patterns among the chief negotiators. Montgomery and Benedict predicted that a negotiator's experience will determine the frequency and duration of a strike [6]. Experienced negotiators are able to accurately assess their opponent's position and concession curves.

Gender

A great deal of current research has focused on gender role and its relation to conflict. Research has revealed that men and women perceive conflict differently: "Men are likely to be more concerned with winning or maximizing outcomes. Women are more concerned with maintaining a positive relationship with their opponent" [7, p. 117]. Although this research seems stereotypical, it implies that the likelihood of an impasse increases when men serve as chief negotiators.

Personality Characteristics

Research has found that risk-taking behavior affects outcome. For example, high risk takers are expected to be tenacious and yield only a small amount from their initial positions [8]. The greater the amount of risk taking, the greater the likelihood of conflict. In contrast, risk-averse negotiators exhibit a tendency toward concessions and impasse avoidance.

Emotion

The individual psychology of the chief negotiator will affect the outcome. An optimistic negotiator with a high degree of self-confidence is more likely to reach an impasse because s/he may possess an unrealistically optimistic view of the situation. Interestingly, a negotiator with negative self-perception may be more realistic in terms of his/her assessment and judgments. This personality type may have a lower probability of reaching a bargaining impasse [9].

The Role of the Environment

The environment plays a central role in determining the likelihood of an impasse. The environment is determined by economic, political, and legal factors. In addition, the resolution of the previous contract negotiations will have a large impact on the next round of negotiations: “What has occurred during the past exchanges, as well as what is occurring presently, significantly affects the nature of the interaction” [2, p. 160]. The key variables of past collective bargaining experiences and bargaining strategy are seen as having a greater influence than the negotiator’s personality characteristics.

THE CASE AGAINST PUBLIC SECTOR UNIONISM AND COLLECTIVE BARGAINING

An interesting article by David Denholm entitled “The case against public sector unionism and collective bargaining” questions the entire process. The public sector collective bargaining process was created in the late 1950s and 1960s and evolved out of the National Labor Relations Act, which was designed for the private sector in the United States. Both the public and private sector enjoy similar rights and protections under U.S. labor laws. However, there are major differences between public and private sector unions.

Public Versus Private Sector—Monopoly Versus Competition

The public sector is basically a monopoly. “There is only a single source of supply for government services. For example, there is only one system of public education. The private sector is competitive; there are alternative choices for

goods and services produced” [10, p. 32]. In addition, the public sector provides essential services and, generally, the private sector, nonessential services.

Political Versus Economic

Public sector decisions are political in nature. Politicians are more likely to make decisions that are politically popular, but economically unwise. Private sector decisions are usually economic decisions, which have less political impact.

Sovereign Versus Free Contact

The public sector is a sovereign power derived from the citizens. It has power to enforce laws and collect taxes within constitutional boundaries. The private sector is governed by free contract. Individual consumers have choice and are not compelled to purchase a specific contract.

Unions

Unions traditionally view the employer-employee relationship as adversarial. This is driven by the profit motive in the private sector, where employees may be exploited. However, the absence of the profit motive affects the power dynamic in the public sector.

Public sector unions are able to act in a monopolistic fashion. When a union negotiates a collective bargaining agreement, it is acting as an economic sovereign over its constituents. Therefore, public sector employees essentially have two sovereigns: the government and the union. This leads to a battle for control over public sector employees during collective bargaining.

Impasses

In both public and private sectors, conflict in the negotiating process can be expressed a strike. In the private sector, a strike is an economic weapon, as the consumer can shift to an alternate service provider. In the public sector, a strike is a political weapon against an existing administration. Management is not hurt economically, since its members continue to earn a salary. However, a public sector strike disrupts the government agenda and service delivery. It may also affect the government’s chances of reelection. The union has a legal right to deprive society of services; however, there is usually swift opposition to restore the lost service.

Backlash to Collective Bargaining in the Public Sector

“Strike Shuts Transit System” [11], “City Staff Edge Toward Strike” [12], and “BCE Chief Roasted by Strikers” [13] are three headlines run by Toronto-area newspapers recently. All three headlines contain the word strike. The growing

trend toward public sector strikes has caused a backlash among the taxpaying public, who are being deprived of essential services.

Critics of public sector collective bargaining argue the process does not serve the public interest. The disruption of public services has created a situation where “public employers are increasingly hostile towards their employees, and there is increasing public hostility towards public workers” [10, p. 38].

Critics argue that collective bargaining in the public sector has led to an increase in strike activity. In 1958, prior to the introduction of collective bargaining, there were fifteen strikes against the government in the United States. By 1980, thirty-seven states had public sector collective bargaining agreements, and there were 536 strikes [10]. The number one issue in the majority of the strikes has been wages.

Commentators claim that collective bargaining agreements have led to higher wages in the United States. It is argued that employees with similar jobs earn higher salaries in the public sector than in the private sector. In 1970, a postal worker earned an average of \$7,777, and a manufacturing worker earned \$7,440. By 1976, the postal worker earned \$13,127 and the manufacturer \$11,703 [10].

Cultural Factors: Employee Rights Versus Union Privileges

In the United States, a great deal of constitutional legislation is devoted to individual rights and freedoms. Government is often distrusted. This has contributed to the distrust of collective bargaining in the public sector. The right to join a union is protected by the First Amendment of the Constitution. However, participation in a union “denies the employees the right to represent themselves individually, or to be represented by another organization of their own choosing” [10, p. 44]. In a sense, union members are dominated by their leaders.

ALTERNATIVES TO COLLECTIVE BARGAINING: INTEREST-BASED BARGAINING

A persuasive research article by Richard Brainerd entitled “Interest-based Bargaining: Labor and Management Working Together in Ramsey County, Minnesota” [14], provides an alternative to collective bargaining. Interest-based bargaining complements the critical backlash to collective bargaining.

Ramsey County, Minnesota, had a bitter strike in 1990 over medical insurance. The county had been plagued by heightened tensions from previous rounds of negotiations. After the 1990 strike, the county created two departments: 1) contract negotiators for collective bargaining purposes; 2) inside negotiators to deal with grievances. These departments helped reduce conflict.

Interest-based bargaining is a problem-solving negotiating process that works to arrive at creative solutions and improve labor management relations [14]. It is also called integrative, consensus-based, or win/win bargaining. With its

contract set to expire July 1, 1996, Ramsey County decided to innovate and tried interest-based bargaining with its own personnel.

Preparation for interest-based bargaining began with two days of intensive training. The training emphasized team building and communications for both management and union teams. The county covered the \$9000 training costs provided by Mediation Centre One. Participants developed norms of behavior for negotiations, an agenda, and an agreement on joint communication.

In preparation for bargaining, both sides developed a list of key issues. An issue was defined as a problem that required solving. Twenty-one issues were pinpointed, including job protection, training, wages, and holidays. The next step was identifying the union-management position with respect to those issues. In the third step, both parties generated options for each issue. Strategies for achieving the objectives of both parties were formulated. The options were evaluated, and the mutually agreed-upon options became part of the new collective bargaining agreement.

During the process both distributive and integrative behavior ensued. The preestablishment of “norms of behavior” led to the avoidance of an impasse. As a result, all nonmonetary issues were quickly resolved. The critical issue of employee compensation—a potential deal breaker—still required resolution.

The twenty-one issues were ranked according to importance. The issues were then delegated to subcommittees, which worked on solving their lists of issues. A subcommittee, working without clearly articulated dollar amounts, resolved the wage issues. This created an opportunity for trust building and flexibility.

By December 11, 1996, all twenty-one issues had been resolved. A three-year collective agreement was signed, one year longer than the norm. “It was the first time ever that labour/management entered into a three year deal” [14, p. 62]. An agreement was reached in record time, prior to expiration of the old agreement.

This system is currently being used in Ramsey County. Contracts are renegotiated in record time, prior to expiration. Under the old collective bargaining system, lengthy delays and strikes were the norm. Today, issues are addressed by motivated subcommittees, grievances have been reduced, and labor relations have improved dramatically.

CASE STUDY: THE SUMMER OF DISCONTENT

The spring and summer of 1999 were extremely volatile in terms of labor/management relations. It was truly a summer of discontent. Various headlines such as “City Workers Edge Toward Summer Strike” [15], “Strike Shuts Transit System” [11], and “Air Canada Talks Go Down to the Wire” [16] became commonplace. This correlates with Canada’s poor performance in terms of personnel productivity. “Canadians lost over 250 days/1000 employees/year during the decade 1985-94” [17, p. 30]. With the epidemic of more recent labor disruptions, this ratio is sure to rise.

The Quebec Nurses' Dispute

One of the most bitter collective bargaining disputes occurred in 1999 in Quebec between the Nurses Federation and the Parti Quebecois government. After two days of political protest, 47,500 members of the Quebec Federation of Nurses began an illegal strike on June 26, 1999. Quebec nurses were receiving the lowest starting salaries in Canada, at \$30,340. Ontario nurses had a starting salary of \$35,685, and British Columbia nurses started at \$39,274 [18]. Although superficial analysis pointed mainly to financial remuneration, the seeds of the dispute ran much deeper.

Historical Background

Quebec has a long and bitter history of labor disputes between organized labor and the ruling government. At first glance, this seems at odds with political parties such as the Parti Quebecois, who in theory are labor-minded. Public sector employees earned the right to strike in 1965, under Premier Jean Lesage. However, one of the root causes of the charged labor environment is systemic in nature:

Quebec is the only province in which all public-sector contracts come due at the same time. All contracts are negotiated at the provincial level. This highly centralized system makes for a long, dramatic and intensely politicized process. The system in place since the 1970s, increased the power of union leaders, who were quick to set up a huge common front that is revived every three or four years [18, p. A4].

The huge concentration of public sector employees engaged in collective bargaining at the same time leads to hard-line positions by both parties. Conflict peaked in 1972, when the province's three top union leaders, Louis Laberge, Yves Charbonneau, and Marcel Pepin, spent four months in jail for inciting walkouts [19]. This event still has historical symbolism in the Province of Quebec.

Labor relations have been traditionally poor during Parti Quebecois regimes. This is somewhat ironic, given that the Parti Quebecois counts on the vote of organized labor to win political power. In 1980, the Parti Quebecois bought labor peace by negotiating generous collective agreements to win sovereignty votes. The government's chief labor negotiator in the late 1970s and 1980s was Lucien Bouchard [18]. After losing the 1980 referendum, the government attempted to roll back wages by nearly 19 percent during the 1982-83 labor crisis. The government claimed the economic recession resulted in a \$700 million shortfall, and Premier Rene Levesque refused to grant salary increases.

Previous Nursing Disputes

In 1979, Quebec nurses staged an illegal strike. Premier Rene Levesque went on public television to persuade the nurses to return to work. He used a chalkboard and constructed an economic argument against a salary increase. The strategy

worked and the nurses returned to work. This early stage of the nurses' federation indicated that a lower level of militancy had existed then.

In 1982-83 Quebec civil servants launched a general strike. The government had tried to reduce public servant salary gains by nearly 20 percent from the previous round of collective bargaining. "Mr. Bouchard was given the task of visiting unions, figures in hand, to persuade them to play along. They refused [18, p. A4]. However, the nurses refused to join the general strike, since they were contributing an essential service to Quebec society. The nurses' movement was still not backing a radical negotiating position.

Nursing Strike 1989

A previous nurses' strike also occurred in 1989. During that dispute, the nurses asked for wage increases of between 5 percent and 10.7 percent in the first year of the contract. The government refused to offer more than 4 percent. The dispute was resolved by "cobbling a deal that combined 4% in the first year, with additional lump sum payments of 2.5% to 4.5%" [20, p. A4]. This was a bitter dispute, where members initially refused the first agreement, only to settle for less generous terms.

After many years of budget cuts and low salaries, the nurses' positions began to change. A 1988 survey revealed a high level of unhappiness among nurses. Over half the provincial nurses said they had considered quitting due to overwork and stress. In 1997, 3,000 senior nurses took early retirement, "nudged by a government drive to reduce the public purse by 6%" [21, p. A2]. A 1997 survey revealed that two thirds of nurses used tranquilizers or sleeping pills. Nurses represented the backbone of the health care system and were faced with more patients and fewer resources.

Public Sentiment

In 1999, the public had tremendous sentiment for the illegally striking nurses. The streets of Montreal were filled with the sounds of honking horns, as supporters dropped off food and encouragement. However, in 1981, 83 percent of those polled felt health workers should not have the right to strike. By 1999, the health care system had deteriorated, and nurses were perceived as champions of the public. Their relatively poor salaries and difficult working conditions created goodwill and credibility.

Renewed Unionism

Poor salaries and working conditions led to the creation of the Quebec Federation of Nurses in 1987. Jennie Skene was elected its president in 1993. The rise in militancy was directly proportional to the reduced quality of care in hospitals. Public support rose as hospital standards were reduced. According to the president

of the Canadian Nurses Association, “this resentment has been building and building . . . ” [21, p. A1]. This sentiment can be found across Canada from Vancouver to Newfoundland. Disputes during the late 1990s include Saskatchewan nurses defying back-to-work legislation, the first strike in twenty years by Newfoundland nurses, picketing in British Columbia and a last-minute settlement before an illegal strike in Alberta.

Nurses' Position in the Current Dispute

In April 1999, the nurses voted 63 percent in favor of a strike to increase salary and working conditions. The nurses requested a 6 percent wage hike over two years, plus a 10 percent catchup pay to bring their salaries in line with social workers. Nurses last got a major wage hike in 1992. “Salaries were frozen for the three years, followed by yearly increases of 0.5 percent, 1 percent, and 1 percent. These raises are considered negligible because they are below inflation” [22, p. A1]. The nurses claimed the salary increase was necessary to stop the brain drain to the United States and to provinces such as British Columbia and Ontario, where minimum hourly wages are \$20.98 and \$18.30, respectively. One projection suggests that there will be a shortage of 60,000 to 113,000 nurses by 2011 [23].

University-educated nurses want to earn the same salary as university-educated social workers. These salaries had been identical until 1993, when the Treasury Board moved social workers up on the salary grid. In addition, nurses trained at community colleges wanted their salaries raised to the old salary of university-educated nurses. The entire catch-up process would average a 10 percent increase for all nurses.

Nonmonetary issues involved forty working-condition issues. In the event of overtime due to an emergency, nurses requested a special clause that would give them the next day off. For example, if a nurse worked an eight-hour day from 9 a.m. to 5 p.m. and then assisted on an emergency until 4 a.m., s/he would be entitled to the next day off. The argument is that this would benefit the nurses and the public. Nurses also want the right to two consecutive weeks of vacation, which is something they do not have. Other demands included more full-time nurses, fewer casual workers, and restrictions on mandated overtime. The nurses agreed to send their salary dispute to binding arbitration.

Government Position

The government's position was that the nurses had no claim, since technically they were involved in an illegal strike. However, the government agreed in principle to a 5 percent pay increase over three years. This is the standard offer for all 400,000 members of Quebec's public service. The government claims that it must safeguard public finances. Any increase given to the nurses would quickly become the benchmark for the 400,000 public servants whose contracts expire in

the fall. The government estimated that each percentage point increase in salary granted to public sector employees would cost \$200 million annually [21]. The government has hinted it would be willing to increase the salaries of university-educated nurses.

The government claimed the Quebec Federation of Nurses had broken protocol in the negotiation process because 1) the nurses did not signal their intended strike to the essential services council ninety days in advance; 2) the nurses went on strike prior to appointing a mediator; and 3) the nurses did not provide mandated levels of essential services. Health Minister Pauline Marois claimed patient care has been affected. She cited evidence of “serious surgical backlogs caused by the strike . . . 13,800 cases of elective surgery have been delayed and 934 beds were closed” [24, p. A2]. The government also refused to go to binding arbitration.

Communication Breakdown

An essential ingredient of successful collective bargaining is effective communication between the principal leaders. In this case study, relations between Quebec Premier Bouchard and Jennie Skene, president of the Quebec Federation of Nurses, were negative. After one week of attempted communications, talks were abruptly broken off. Before imposing back-to-work sanctions, Premier Bouchard called President Skene. According to Skene, Bouchard asked the nurses to “suspend the strike temporarily and come back to the table . . . I’ll deal with you personally and we’ll reach an agreement.” Skene said thanks, but no thanks [25, p. A2]. This resulted in the government enacting back-to-work legislation.

Back to Work Legislation: Bill 160 and Bill 172

The government had two strong pieces of legislation at its disposal, Bill 160 and Bill 172. Bill 160 is a harsh law that authorizes docking one year of seniority for each day of illegal strike action, as well as deducting two hours of wages for each hour of an illegal strike. The seniority reduction is currently being challenged in the Supreme Court of Canada.

Bill 172 is a punitive bill enacted to punish labor leaders in the event of an illegal strike. This bill allowed the government to slap the nurses’ union with a \$125,000 penalty for the illegal strike action and union leaders also lose three months of paid union-business time for every day the strike continues.

One of the critical factors in any collective bargaining dispute involving the public sector is public support. The nurses enjoyed tremendous public support that prevented the government from imposing even harsher sanctions. Surveys revealed that out of 1,009 Quebecers polled, 71.3 percent felt the nurses’ wage demands were reasonable, and 61.5 percent agreed with the nurses’ pressure tactics [26]. Another 69 percent believed the government should not penalize the nurses as long as they maintained essential services [26]. Clearly, the nurses were winning the public relations campaign.

In the first of many public relations disasters, Health Minister Pauline Marois asked four professional bodies to assess the impact of the strike. This move was clearly designed to draw public support away from the nurses. Three of the four groups, including the Quebec College of Physicians, Quebec Medical Council, and the Quebec Order of Nurses, claimed essential services were being provided. “The reports that Ms. Marois received all spoke about how overextended Quebec’s health institutions were before the strike began” [27, p. A1]. However, forty-three Montreal health-care administrators expressed concern with degradation in the access and quality of care. In addition, the lack of nurses’ visits to community centers such as old-age homes was of considerable concern.

The most critical public relations error occurred with the leakage of a secret Parti Quebecois memo. The memo distributed to PQ party members contained a plan “in which party members concealed their affiliation while calling radio talk shows and writing letters to the editor criticizing the nurses” [28, p. A1]. The plan’s idea originated at lower party levels and was quickly vetoed by Bouchard, especially when its contents were leaked to the media. Bouchard publicly apologized for the creation of the memo.

After seventeen days of picketing, the nurses voted 93 percent in favor of a forty-eight hour truce. The truce would begin on Tuesday, July 13, 1999, at 8:00 a.m. and end on Thursday, July 15, 1999, at 8:00 a.m. The nurse’s position was that they enjoyed sufficient public support, which could be leveraged at the bargaining table. When the government agreed to discuss salary concerns, a brief window of opportunity was opened.

The Magical Powers of a Deadline

When negotiating collective bargaining agreements, a tight deadline can force a deal that would be otherwise declined. As the forty-eight window of opportunity was closing on July 15, 1999, there was still no deal between the government and the Quebec Federation of Nurses. Within only thirty minutes to go, after forty-seven hours of negotiating, a tentative deal was reached.

The government offered an additional lump sum payment of \$35 million for the last six months of 1999. This sum would be in addition to the 5 percent offered over three years. As well, forty nonmonetary issues such as job security, vacation time, and working conditions were negotiated [29]. The government also agreed to study the wage issue over a two-year period. However, there were doubts expressed as to how the union members would react to this tentative deal.

The deal was bitterly embraced by the nurses’ union. The emerging consensus was that the nurses deserved better after staying off the job for three weeks. The offer amounted to a \$736 increase per nurse. This is an insignificant sum, considering that nurses lost more than \$2,000 each during the illegal strike period. Despite picketing outside the delegate headquarters, 62 percent of union delegates ratified the deal.

The deal was ratified only after modification of the wage parity issue. The union members were so upset by the two-year study period that the deadline was modified to November 15, 1999. This was a shrewd move by the Bouchard government because the collective bargaining agreements with the 400,000 Quebec civil servants were due to be negotiated first. This takes away the potential of the nurses' settlement as a precedent-setting agreement for other provincial employees. The deal caused a schism between the union executive board and its members.

The deal constituted an act of good faith and trust by the union leadership in the Bouchard government. If the government study were to find nurses underpaid, "it will translate into an immediate maximum first year increase of 5 percent for university trained nurses and 2% for community college nurses" [30, p. A4]. However, the nurses might also come away empty-handed.

The negotiated settlement between the government and the union met with intense disapproval by the nurses. On Wednesday, July 21, 1999, 75 percent of the nurses rejected the deal. Voter turnout was estimated at 63 percent, which is unusually high [31]. Union President Jennie Skene faced several nonconfidence motions by the nursing membership and the deal was not ratified because there were no substantial salary gains. In addition, most nurses distrusted the government's ability to objectively study the salary situation by November 15, 1999 and recommend an increase [32]. Some nurses were facing salary losses of \$7,000, as well as punitive damages, rendering the original settlement unacceptable.

An obvious stakeholder in the nurses' dispute is the patient. At the beginning of the strike, patients were quite supportive of the nurses' union. However, as the dispute progressed, a third party entered the battle: a patients' right group called, "*Conseil pour la protection des malades*." This stakeholder group went to Quebec Superior Court to seek an injunction forcing the nurses back to work. The group also asked the government to return to the bargaining table. The Quebec Superior Court rejected the injunction and the union leaders pondered their next strategy.

On Saturday, July 24, 1999, the Quebec Nurses Federation called off its illegal strike. After lost wages and internal fighting, a truce was called until mid-September, when the collective agreement was due to expire officially.

Lucien Bouchard's government had won the first round of the dispute. The government received positive reviews from other provincial governments. Government leaders did not cave in to public support for the nurses and claimed they were the protectors of public finances.

The government discredited itself initially with ill-conceived strategies. The poorly planned public relations campaign to write and call the mass media was short-sighted and mean-spirited. The government invoked Bill 160, which quietly eroded the nurses' resolve through stringent financial penalties.

Initially, the Quebec nurses had enjoyed an early and large lead over the government, since the government was widely perceived as stubborn and ill-intentioned.

After public relations disasters, the government was forced back to the bargaining table.

However, at the bargaining table, the nurses did not have a strong performance. The pressure of the forty-eight hour deadline and the desire to obtain an agreement influenced their judgment. The union leadership unexpectedly accepted the status quo agreement of a 5 percent wage increase over three years, plus an agreement to study the wage issue within two years.

Rank and file nurses did not support the agreement. After 75 percent of voting nurses rejected the deal, leadership support crumbled, and the strike was over. The nurses attempted to negotiate ahead of the rest of the civil service, but they did not obtain a separate agreement and lost money as well.

Strategic Next Steps

Government

- Continued refusal to comment on salary issue.
- Said it would wait until mid-September to continue with negotiations.

Union

- Agreed to seek advice from neutral consultants
- Agreed to appointment of a mediator. If a deal could not be reached through mediation, the nurses would be in a legal strike position but would not incur punitive financial penalties.
- Agreed to file grievances over breaches in current collective agreement.

CONTRAST: COLLECTIVE BARGAINING IN THE PRIVATE SECTOR—THE AIR CANADA DISPUTE

In July 1999, the Canadian Union of Public Employees and Air Canada were heading for a confrontation. The flight attendants were in a legal strike position, as of midnight, July 7, 1999 [33]. The Federal Department of Labor appointed two mediators, Thomas Dinon and Elizabeth MacPherson, to help resolve the dispute.

Although Air Canada is a private sector company, it was once part of the civil service. This provides an interesting opportunity for comparison between collective bargaining in the private and public sector. Previous collective bargaining theory had considered the private sector as the market and the public sector as a monopoly.

Economic Environment

Air Canada is the dominant air carrier in Canada. Canadian Air Lines International is the follower, with a perpetual series of cash-flow problems and

corporate bail-outs by the federal government. Air Canada's most recent strike occurred in September 1998, when its pilots walked out for thirteen days. It cost the airline \$250,000,000 in lost revenues [33]. The airline could not afford another work stoppage. The union leveraged this knowledge, and the 5,100 flight attendants gave the union a 94 percent strike vote.

Key Issues: Wages and Pension

Union

- The union demanded an annual pension increase of \$4,500 to \$6,500.
- Flight attendants were earning a maximum pension of \$22,000 after thirty-five years.
- Current salaries range from \$18,000 to \$38,500, with no overtime provision.
- The union wanted to increase annual salaries, now that the airline is prospering.

Management

- Management was prepared to offer lump sum payments of \$10,000 to \$12,000 to increase the pension
- Both sides agreed to wage increases of 12.5 percent over the life of the three-year contract.

Settlement

An eleventh hour settlement was reached within minutes of the 12:01 a.m., July 8, 1999 deadline. Highlights include:

- Annual salary increases of 5 percent, 4 percent, and 3 percent, respectively.
- Pension: after twenty-five years, pensions would increase by \$3,000 per annum.
- Working conditions: improvements to crew rest rules and a reduction in qualifying age for pension from fifty-seven to fifty-five.
- Improvements to the life insurance and health plans.

Key Differences Between Public and Private Sector Collective Bargaining

Unlike the nurses' health care strike, in the Air Canada strike market dynamics come into play. The consumer has a clear choice among service providers, despite the booking frustrations. Air Canada could not afford two service disruptions in the same fiscal year; the loss of goodwill would have been tremendous. As well, a strike by flight attendants would have resulted in layoffs for 13,000 other Air Canada employees within a few days. Secondary industries such as taxi service

and airport retail concessions would also be affected. This highlights a critical difference between public and private sector bargaining: Market dynamics place increased pressure on management to settle disputes.

INCREASED MILITANCY—AN EMERGING TREND IN COLLECTIVE BARGAINING

The Air Canada settlement has raised many issues regarding economic indicators such as inflation. “The agreement raised eyebrows in the markets, hopes in the labor movement and inflation fears on Bay Street” [34, p. A4]. After years of making concessions at the bargaining table, Canadian unions are beginning to make wage gains. This is reflected by the fact that private sector wages rose 1.8 percent between 1997 and 1998. During the first four months of 1999, salaries rose 2 percent and peaked at 2.2 percent in May. Settlements are 1 percent higher than the inflation rate, which represents a true salary gain.

The wage increases indicate unions are getting more aggressive regarding the salary issue. This is especially true in a strong economic environment, which has continued since 1997. The nature of collective bargaining has evolved in the private sector to include variables such as performance bonuses and employee compensation. This has also resulted in higher salaries

The public sector unions want to catch up for past losses in salary opportunities. During the recent recession, many unions negotiated wage cuts to avoid layoffs. Many signed multiyear deals, which blocked increases when the recession ended. Ken Georgetti, president of the Canadian Labour Congress, claimed union leaders are under mounting pressure from members to deliver some financial rewards for past sacrifices. This is reflected by the 127 work stoppages in the first quarter of 1999 in Canada. This is the highest number of labor disruptions in Canadian history. Unions are also trying to catch up for years of salary increases that have been below the inflation rate. The average Canadian income in 1999 was \$23,160, which is \$800 lower than in 1990 when adjusted for inflation.

Fundamental Differences between Public and Private Sector Unions

A recent study commissioned by the federal government studied the differences between the public and private sector [35]. The study by Pradeep Kumar, a professor of Industrial Relations at Queen’s University, found militancy had flared up during 1998 in all Canadian provinces [35]. Teachers and nurses have taken to the picket lines in an effort to reclaim lost ground and respect.

The key differences between public and private sector unions are reflected by morale. Worker morale and frustration were measurably lower in the public sector. The “average public sector wage gain was 1.2% in the first quarter of 1999, compared to 2% for private sector employees during the same period. In 1998,

public sector wage gains were up 1.5%, compared to 1.8% for the private sector [35, p. B1].

The conclusion, according to Kumar, is that the public sector employees are worse off. "The public sector is now a more disadvantageous place to work than the private sector" [34, p. A4]. This reflects a reversal of the 1970s trend, when working conditions and salaries were better in the public sector.

CONCLUSIONS

Research and case studies have revealed that collective bargaining in the public sector can be highly confrontational. The Canadian context reveals a heightening level of context [36]. The trend toward bitter disputes over salary and working conditions is expected to continue in the public sector, now that provincial governments are running budget surpluses.

Current economists and academics have clearly documented salary disparities between the United States and Canada. The widening gap between the two countries is now a matter of concern [37]. Since private sector employees in both countries are enjoying higher salaries, the net result is that Canadian public sector employees are trailing in every major category. In the current context, it is unlikely that they will tolerate these conditions for very long.

The professional literature and the case study focusing on the Quebec Federation of Nurses point to a larger issue. It appears as if the organizational foundation of collective bargaining contributes to conflict. The appointment of separate chief negotiating teams sets up a distributive and competitive dynamic from the outset.

There are several alternatives to traditional public sector collective bargaining. For example, interest-based bargaining, as practiced in Ramsey County, Minnesota, offers a potential solution. This system involves team and consensus building among opposite sides. Disputes are mediated internally through mutual accommodation. Another alternative is binding arbitration. With the bitter example of the Quebec nurses, it appears as if the time for alternative dispute resolution mechanisms has arrived.

* * *

Bernard Hyams obtained a Bachelor of Arts from Concordia University, honoring in Western Civilization in 1987, then went to Teacher's College at McGill University and graduated in May 1989. He graduated with a Master's in Education from the University of Ottawa, and recently completed a Master's in Business Administration from York University (1999). Mr. Hyams is a teacher with the York Region District Board of Education, in the Toronto area.

REFERENCES

1. K. Kovach and A. Hamilton, "Leveling the Playing Field," *Business and Economic Review*, 1, pp. 12-18, October-December 1997.
2. T. Chandler and T. Judge, Management of Chief Negotiations, Bargaining Strategies, and the Likelihood of Impasse in Public Sector Collective Bargaining, *American Review of Public Administration*, pp. 146-165, June 1998.
3. J. L. Pery and H. L. Angle, The Politics of Organizational Boundary Roles in Collective Bargaining, *Academy of Management Review*, 4, pp. 487-496, 1979.
4. J. L. Stern, Unionism in the Public Sector, *Public Sector Bargaining*, pp. 52-89, 1988.
5. R. E. Walton and R. B. McKensie, *A Behavioral Theory of Labor Negotiations: An Analysis of a Social Interaction System*, McGraw Hill, New York, 1965.
6. E. Montgomery and M. E. Benedict, The Impact of Bargainer Experience on Teacher Strikes, *Industrial and Labor Relations Review*, 42, pp. 380-392, 1989.
7. R. L. Pinkley, Disputant Interpretations of Conflict, *Journal of Applied Psychology*, 75, pp. 117-126, 1990.
8. D. L. Harnett, L. L. Cummings, and G. D. Hughes, The Influence of Risk-Taking Propensity on Bargaining Behaviour, *Behavioral Science*, pp. 91-101, 1968.
9. B. Ally and L. Y. Abraham, Judgment of Contingency in Depressed and Non-Depressed Students: Sadder but Wiser, *Journal of Experimental Psychology*, pp. 441-485, 1979.
10. D. Y. Denholm, The Case Against Public Sector Unionism and Collective Bargaining, *Government Union Review*, pp. 31-52, 1998.
11. C. Abraham and J. Lewiston, Strike Shuts Transit System, *Globe and Mail*, pp. A1 and A9, April 19, 1999.
12. Anonymous, City Staff Edge Toward Strike, *Toronto Star*, pp. B1 and B2, June 16, 1999.
13. S. McCarthy, BCE Chief Roasted by Bell Strikers, *Globe and Mail*, p. B3, April 29, 1999.
14. R. Brainerd, Interest-Based Bargaining: Labor and Management Working Together in Ramsey County, Minnesota, Washington: *Public Personal Management*, pp. 51-68, Spring 1998.
15. Anonymous, City Workers Edge Toward Summer Strike, *Globe and Mail*, p. A1, June 21, 1999.
16. O. Bertin, Air Canada Talks Go Down to the Wire, *Globe and Mail*, p. A1, July 7, 1999.
17. D. W. Taylor, A. A. Warrack, and M. C. Baetz, *Business and Government in Canada*, Prentice Hall Canada, Scarborough, Ontario, 1999.
18. L. Gagnon, How Deep is Support for the Nurses? *Globe and Mail*, p. D3, July 10, 1994.
19. O. Bertin, Travellers Scramble as Strike Looms, *Globe and Mail*, July 6, 1999.
20. T. T. Ha, Quebec, Nurses Begin Marathon Talks, *Globe and Mail*, p. A4, July 14, 1999.
21. I. Peretz, Nurses Back on the Job for 48 Hours, *Globe and Mail*, p. A1, July 6, 1999.
22. T. T. Ha, Nurses Vote by Huge Margin to Stay Out, *Globe and Mail*, pp. A1 and A10, July 7, 1999.
23. T. T. Ha, Nurses Vote by Huge Margin to Stay Out, *Globe and Mail*, pp. A1 and A10, July 7, 1999.
24. I. Peretz, Bouchard Slaps Nurses Union with Additional \$125,000 Penalty, *Globe and Mail*, p. A2, July 6, 1999.
25. I. Sturnino, Air Canada Strike Moves Closer, *Montreal Gazette*, p. A1, July 2, 1999.

26. I. Peretz, Striking Quebec Nurses Defiant Despite Threat of Sanctions, *Globe and Mail*, pp. A1 and A7, June 29, 1999.
27. O. Bertin, Air Canada, Attendants Settle, *Globe and Mail*, July 8, 1999.
28. T. T. Ha, Bouchard Apologizes to Nurses, *Globe and Mail*, p. A1, July 9, 1999.
29. C. Clark, Shaky Deal Reached with Quebec Nurses, *National Post*, p. A5, July 16, 1999.
30. M. MacKinnon, Will Labour Costs Raise Prices? *Globe and Mail*, p. B1, July 19, 1999.
31. C. Clark, Angry Quebec Nurses Reject Latest Offer, *National Post*, p. A5, July 22, 1999.
32. T. T. Ha, Quebec Nurses Reject Truce, *Globe and Mail*, p. A1, July 22, 1999.
33. U. Vu, Ambulance Technicians Vote to Strike, *Montreal Gazette*, p. A3, July 2, 1999.
34. T. T. Ha, Union Must Persuade Quebec Nurses to Take Deal, *Globe and Mail*, p. A4, July 19, 1999.
35. Pradeep Kumar, Professor of Judicial Relations at Kingston University in Kingston, Ontario is cited in Mark MacKinnon "Public Servants Expected to Bargain Hard," *Globe and Mail*, p. B4, July 19, 1999.
36. J. Black-Branch and W. Lamont, Public Sector Asphyxiation: A Time for Action in Collective Bargaining, *Journal of Collective Negotiations in the Public Sector*, pp. 169-174, 1998.
37. B. Tal, *Accounting for the Widening in the U.S.-Canada Income Gap*, CIBC, Toronto, pp. 1-7, June 1999.