Unions And The Public Interest: Collective Bargaining in the Government Sector. **Sandra Christensen, Vancouver: Fraser Institute, 1980. Pp. *xxi*, 95. $5.95 (paperback).**

One of the most frustrating and hotly debated issues in Canadian society is the public service strike. Whether it involves police officers, school teachers, hospital workers or liquor store employees we have all felt and suffered the impact of such collective action. However, like the weather, it seems to be a subject which everyone talks about but no one is prepared to do anything about.

In a most stimulating book, Professor Sandra Christensen has not only analysed the problems inherent in providing public servants with full collective bargaining rights but has made certain proposals which may hold some prospects for the future.

The conclusion reached by the author, and one which is statistically sustainable, is that public servants have, since the mid 1960s, achieved higher percentage wage settlements than comparable employees in the private sector. When consideration is given to such a factor as shorter working hours in public employment the comparison becomes more acute. The author notes that there are, however, factors which serve to reduce the impact of the imbalance.

Professor Christensen basis her proposals for solution of the existing unacceptable situation upon a thesis which may not be acceptable to those who are concerned with the problem. In short, the author suggests that public servants be prohibited from bargaining, and therefore striking, over wages, which would be established by a Wage Board. The criteria to be applied by the Board would be comparability with the private sector. Public employees would, under the author's proposal, be permitted to bargain, and thus strike, over non-wage issues and other conditions of employment. The proposal quite properly recognizes certain restrictions on public sector bargaining which currently exist, such as, the prohibition against striking by those employees "essential" for the public health, safety and security, the non-bargaining status of such matters as government organization, lay off, pensions, classification of employees, etc.

The author has been very perceptive in recognizing that the greatest hurdle to change is the political opposition to removing existing rights from public employees. Will politicians be prepared to take affirmative action to end the ridiculous situations where the public is literally made the hostage of public service disputes?

The author has traced the growth of public service bargaining with the right to strike from the mid 60s to the present and the

accompanying distortion of comparability with the private sector. She has accurately assessed those factors which, in part, have resulted in excessive settlements in certain areas of the public sector.

It would be most interesting to have available further studies dealing with the incidents of settlements made under the shadow of an election campaign. If the Province of New Brunswick was the measuring stick one suspects that the statistics would be most revealing and disturbing.

A suggestion which the author has made which may be the key to her entire proposal is the prohibition against bargaining immunity from prosecution or litigation in the event of unlawful activity during a strike. While the postal workers prosecutions represents an example of enforcement for breach of public labour relations statutes, it constitutes an exception rather than the rule. It has always been a mystery why public servants have been permitted to disregard the limitation imposed by statute with apparent immunity, while enjoying the extensive benefits provided by that very statute. Professor Christensen has suggested that immunity could not be the subject of negotiations and further that an independent public prosecutor would be required to institute criminal proceedings where warranted.

Therein may lie the answer to many of the present ills of public sector bargaining. On many occasions persons engage in unlawful strikes or other activities with the public exposure of the impropriety of their actions. Nonetheless their actions normally achieve the result sought with little or no reprisal from authorities. There is little wonder why the public has lost its faith in the ability or desire of the politicians and those in authority to cleanse the system.

One of the suggestions of the author for achieving a better balance in the public sector which I consider unrealistic was that public employers ought to resist closed shop clauses in collective agreements but content public service unions with the Rand formula. This would permit the non-members, in the author's thesis, to work during a strike over non-monetary issues. From experience, one can state categorically that the proposal and its effect would simply not work but would most assuredly guarantee further confrontation.

One of the difficulties with the author's proposal is her failure to recognize the realities of the power of public service unions. Any system which continues to permit public service strikes for any reason demands considerable analysis. It is conceivable that under the author's proposal the real cause of strike action could be clothed in varying ways so that a prohibited reason would nonetheless be the real reason without the necessary avenues being available to restrain such action.

Nonetheless, Professor Christensen has performed a most meaningful study of a subject matter which cries out for solution. She is to be commended for an excellent analysis of certain aspects of a complex issue. Her suggestions for solution are deserving of serious consideration and debate by those who can make the necessary decisions by amending existing legislation.

While Professor Christensen does not pretend to advance a text for lawyers, it is a publication nonetheless which is deserving of attention by practitioners who may be, directly or indirectly, involved in public sector bargaining. She has achieved considerable success in delineating the problems of the present system (which has been often attempted) and, more importantly, suggested a possible alternative.

The answer to the dilema undoubtedly rests with sufficient public opinion motivating politicians to act. Public apathy sadly appears to be the current mood of the nation.

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***Law and Legality: Materials on Legal Decision-Making, Cases, Notes and Materials,* John E. Claydon and J. Donald Galloway, Toronto: Butterworths, 1980. Pp. 560. $25.50 (paperback).**

In an effort to acquaint students with the role of the courts in the Canadian legal system, law schools have generally offered courses at some point during the three years of instruction which attampt to delineate and analyze the phenonemon decision-making. Whether classifided under the rubric of "legal method", "legal process" or "public law", it appears fair to assert that while the aspirations of such programmes of study are laudable, the objectives — presumably the inculcation of some appreciation and comprehension of the relationship of the legal system to other modes of social organization and the role of law as a reflection of certain communal values and as a medium of reconciliation of antagonistic interests — are only imperfectly realized.