

when a strike has so affected the public interest that the right must be suspended.

Your Committee recognizes that the public interest can be adequately protected by Government and Parliament determining when and where the public interest is adversely affected. When Parliament is dissolved, the Governor-in-Council should be similarly empowered.

Your Committee therefore recommends:

9. *That when Parliament is dissolved, the Governor-in-Council be empowered to suspend the right to strike, whenever in its opinion a strike is adverse to the public interest.*

In order to provide additional mechanisms to facilitate settlements, the Committee examined the techniques available under the Canada Labour Code and endorses the provision enabling the establishment of Inquiry Commissions. Your Committee therefore recommends:

10. *That the President of the Privy Council, upon the recommendation of the Public Service Staff Relations Board, acting on his own initiative or upon application, may refer a dispute or difference between employer and employee that exists or is apprehended to exist to an Inquiry Commission for investigation and report to the President of the Privy Council.*

DESIGNATED EMPLOYEES

Both Mr. Finkelman, in his report, and the Treasury Board, in its representations to the Committee, proposed that the definition of designated services should be extended. In some of the representations from organizations outside the public service, suggestions were made which would have broadened the definition to include "essential services". Your Committee feels that the phrase "essential services" is too difficult to define and would lead to the inclusion of most public servants. In other words the right to strike would be granted to public servants only to be denied by another process. In balance, we conclude that some extension of designated services beyond safety or security is necessary, to ensure that "health" be included, and to add a new dimension that of protection of public property.

Your Committee does not believe that it is the desire or in the interest of any employee or bargaining agent to indirectly damage or destroy public property, to jeopardize national treasures, or to expose to risk the outcome of important experiments through the withdrawal of services. The results of such destruction would in some circumstances interfere with a return to work despite a settlement. We accept the assurances of the representatives of the bargaining agents that appeared before us that special arrangements can and will always be made to guarantee protection. We do not doubt the good faith of those making these representations but we believe that the public should have statutory assurance in these areas and that such minimum protection no longer be a subject of bargaining. Your Committee therefore recommends that the law be revised to provide for the designation of employees:

11. *To protect members of the public against an imminent threat to their health, where the withdrawal of services would pose such a threat.*

12. *To ensure the continuation of important experiments particularly long-term experiments or research where the withdrawal of services would place them in jeopardy.*

13. *To maintain the necessary physical environment for the security of national treasures.*

14. *To ensure that temperature of all public buildings does not fall below 50 Celsius. (The maintenance of temperature at 50 Celsius will have no detrimental effect on the employees' strike nor will it provide any assistance to the employer to continue operations.)*

Though the bargaining agents all agreed that the concept of designation was valid there was criticism of the number of people designated, the identification of the persons designated and the designation process itself. It was argued that the compilation of the list of designated employees should be left to the parties to negotiate. This view assumes that the prime concern of the parties is to protect the public interest. Experience does not necessarily support this view. Instead, it shows that the public interest tends to become secondary to the primary subject of bargaining terms and conditions of employment. Eight years of experience has shown that the designation process has become integrally related to the negotiation process with all the devices of strategy, advantage, timing, play and counter-play. In some circumstances the employer has inflated its list on the assumption that in subsequent bargaining some designations would be lost. On the other hand, the record also reveals that too often the initial response of bargaining agents to the employer's proposed list of designated employees was to object to every position on the list. In other circumstances, for strategic reasons, bargaining agents have agreed to proposed designations that would otherwise have been unwarranted.

Your Committee deplores these techniques. These manoeuvres have produced a lack of confidence on the part of employees in the integrity of the process. We therefore conclude that the process by which employees are designated under the Act is unsatisfactory.

Under the present legislation, the designation process becomes operative only where the bargaining unit has chosen the conciliation - strike route as the dispute resolution mechanism and the designation has application and effect only during the period in which a legal strike occurs in that cycle of bargaining. Your Committee believes that employees should be designated because they perform duties protecting the public interest and not because of the dispute resolution process chosen; and further that if the duties of a position are designated, the incumbent should be required to perform those duties until a case can be made that justifies the removal of the "designation" status.

Later in this report, the penalties recommended for unlawful activities are set out and distinctions are drawn between designated and non-designated employees. Designated employees or those accessory to preventing designated employees from performing their services should be subject to the appropriate penalties whenever they unlawfully withdraw their services.

After eight years of experience with the designation process, one might reasonably expect the system to have