The Brief

Vol. 12 No. 7 | A publication of the NB Media Co-op | June/July 2021 | nbmediacoop.org

June 1992: General Strike in New Brunswick

By DAVID FRANK

"In McKenna No Trust/Aucune confiance en McKenna": The slogan was widely distributed during the weeks leading up to the 1992 general strike. Photo from *Provincial Solidarities: A History of the New Brunswick Federation of Labour* by David Frank.

A general strike? Here? In New Brunswick?

It happened, or at least a version of a general strike happened, back in the spring of 1992. And the even more surprising part of the story is that it was successful.

With storm clouds gathering on the labour relations front in New Brunswick these days, the 1992 general strike may be more than an historical curiosity.

The situation thirty years ago was not all that different from what we see today. Unions were insisting that they needed to negotiate contracts that protected and improved living standards for their members. And employers were saying that they did not have the resources to do that. This was especially true in the public sector, which was reeling from deep cuts in transfer payments to the provinces that had been imposed by the federal government.

The confrontation came to a head in the public sector in 1991, just as Premier Frank McKenna was completing his first term in office. As a major employer, the province had a power that no other employer had – the ability to bring in laws and regulations to shore up their position.

To prove their point, McKenna's government passed an Expenditure Management Act that suspended scheduled public sector wage increases. Thousands of people turned out to protest in front of the legislature. A Coalition of Public Employees was formed, bringing together several of the affected unions, including nurses and teachers. A complaint that tampering with collective agreements was a violation of international labour standards went to the International Labor Organization, and eventually there would be a decision in favour of the unions.

But McKenna did not wait before deciding to repeat the experiment the next year, after winning re-election against a divided opposition. A second *Expenditure Management Act* was introduced in 1992, extending existing contracts for two more years, with pay increases limited to no more than 1 and 2 per cent. It looked like the "exceptional" measures of 1991 were going to be more permanent.

The Coalition of Public Employees returned to action, and their rallying cry focused directly on the premier, under the slogan "In McKenna No Trust." The message went out through the social media of the 1990s, including buttons, banners, and billboards as well as radio and television spots and full-page newspaper ads. The theme was that the province was abusing its legislative authority by overturning legal contracts and suspending collective bargaining: "The McKenna Government under the guise of financial responsibility, is dismantling the values that make New Brunswick worth living in."

The campaign reached its peak at the end of May, when members of the New Brunswick Nurses Union and the Canadian Union of Public Employees (CUPE) voted to go on strike unless the government withdrew the legislation. Meanwhile, delegates to the annual meeting of the New Brunswick Federation of Labour, many of them from unions not directly involved in the dispute, voiced support for the public sector unions, up to and including a general withdrawal of services – a diplomatic term for a general strike.

As it turned out, mediators were at work behind the scenes, and when the general strike came, it did not go beyond the membership of CUPE. The first week of June saw picket lines at government offices, schools, hospitals, highway garages, liquor stores and other operations. The government quickly secured injunctions against mass picketing. And the premier did not hesitate to escalate the situation by calling for the decertification of CUPE as a bargaining agent and threatening to sue the union for millions of dollars in lost sales at the liquor stores.

But McKenna had underestimated the support for the unions among the general public. As the strike continued, several of his closest advisors convinced him to sit down with CUPE national president Judy Darcy. Under a complicated arrangement, the government agreed to exempt CUPE from the wage freeze while the union agreed to a contract extension and a modest wage increase at a later date. Also, there would be no fines or other reprisals against union members who went out on the illegal strike. The deal allowed the province to claim the settlement was fiscally responsible, while the union could say they had fought the government to a standstill and defended union rights.

Technically, the four-day general strike that took place in 1992 was a sectoral strike involving workers in a large province-wide union where many groups had a shared grievance against their employer. But the political element was obvious, as these workers were taking drastic action to reject the assumption that the province's fiscal difficulties could or should be downloaded onto public employees. There were also underlying concerns about McKenna's "real agenda" of reduced services, unfair taxation, privatization, and other initiatives to promote a "business-friendly" environment. All this was conditioned by the belief that McKenna's predecessors in the premier's office, Richard Hatfield and Louis Robichaud, had treated organized labour as an essential partner in provincial development.

General strikes are very unusual in our labour relations system. Since the time of William Lyon Mackenzie King, the system has been constructed to try to avoid strikes. Today, workers covered by union contracts are required to remain at work unless they have gone through all the stages necessary to reach a legal strike position. That may take years, and even then, as nursing home workers have discovered in the recent past, they may still be declared essential workers or otherwise prevented from exercising the strike option. Strikes continue to be by far the least common method of settling labour disputes.

Our laws have long recognized the legitimacy of unions, and the Supreme Court ruled in 2007 that collective bargaining is protected by the Canadian Charter of Rights and Freedoms. Most workers take pride in their work and their value to society. In return, they expect to have fair wages, reasonable conditions, and respect from their employers. When these are denied, and denied on a large scale, as happened in 1991 and again in 1992, workers know they have to stand together.

David Frank is the author of Provincial Solidarities: A History of the New Brunswick Federation of Labour.

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Supreme Court decision affects Indigenous peoples living on Canada-U.S. border

By HUGH AKAGI

It's not often that a Supreme Court of Canada ruling affects you, your neighbours, and your family. But that's now the case with a court ruling that Richard Desautel, a man living in Washington State, can exercise his constitutional rights in Canada because his ancestors came from what is now British Columbia.

Desautel's people, the Sinixt Nation, were expelled and declared extinct by the Canadian government. But Desautel returned to BC to hunt an elk and then turn himself in to provincial conservation officers. He won all through the court system. The Supreme Court said "persons who are not Canadian citizens and who do not reside in Canada can exercise an Aboriginal right."

My Nation, the Peskotomuhkati, straddles what is now an international border too — Maine and New Brunswick. In many places I can throw a softball across the Skutik (St. Croix) River to Maine — that's how close I am to my relatives and fellow Nation citizens. But we've not been able to visit during the pandemic that has closed the border. Some in the Nation don't have the appropriate identification to cross: passports or Indian ID cards, for example.

My Nation intervened in the Supreme Court case. Nation citizens who live in the U.S. are federally recognized as a "tribe" and have been for more than 45 years. Nation citizens in Canada have been promised recognition as "Indians" for 15 years but this has not come to pass. But these terms have been imposed on us by European settlers and, in Canada, the Indian Act.

For about 14,000 years before European settlement, we travelled to hunt, fish, for seasonal settlements and to visit relatives. There were Indigenous territories and we respected the territory of other Indigenous peoples, but there were no states, provinces, or countries as we now know them. Our formal and treaty relationship began long before there was a Canada or U.S.

We've always maintained that we are one united Peskotomuhkati Nation. We expect our negotiation partners in New Brunswick and Canada to respect our rights and our abilities to manage the implications of this new ruling. Borders have been used to divide us. Land has been stolen. Fish stocks have been depleted. Having a law doesn't guarantee the implementation of justice.

I'm hopeful (but fearful) that 20 years from now young people of my Nation won't be asking what went wrong and how yet another Supreme Court ruling got ignored or watered down. I hope governments take this ruling seriously and not seek a work around as was done with the Marshall decision. In this decision, the court ruled that Indigenous people have a right to a moderate livelihood commercial fishery, but, in the 22 years since the decision, there's been no agreement on what those words mean. Even the courts have subsequently ruled that Canada's Department of Fisheries and Oceans is wrong to try to squeeze Indigenous fishing rights into commercial fishing practices.

Nation citizens on both sides of the border seek answers to some important questions. Though Peskotomuhkati residing in Maine now have recognition to exercise their Indigenous rights as protected by the Constitution in Canada, border officials will still be there to ask their questions. Peskotomuhkati citizens moving to Canada would be entitled to exercise those rights including access to health care (just as I or any other of our citizens now living in Canada are guaranteed the same by U.S. laws if we decide to live in the U.S.).

It is critical that these rights be properly accessed and administered through Peskotomuhkati rules and regulations requiring fair and equal negotiations with federal and provincial governments in Canada. These negotiations must be on a Nation to Nation basis with the tribal representation in Canada and the St. Croix/Skutik branch of the Greater Nation on both sides of the border.

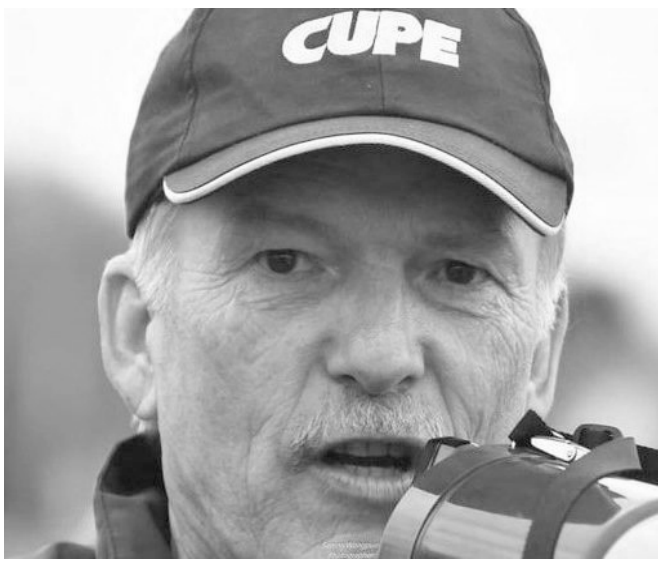
We've been managing the environment with Peskotomuhkati laws, policies and regulations for 14,000 years and we will continue to work to ensure that food sources are respected and sustainable.

Rights are not a gift from government. People have inherent, natural rights that government can protect, but not give or take away. My Nation's natural Indigenous/Aboriginal rights are now recognized by Canada's Supreme Court — and rightly so.

Hugh Akagi is the Sakom (Chief) of the Peskotomuhkati at Skutik Nation.

St. Thomas University custodians lose union due to contract flipping CUPE resolves to protect its workers in future

By SUSAN O'DONNELL



Steve Drost is the new president of CUPE New Brunswick. Photo from CUPE.

At the virtual annual convention of the Canadian Union of Public Employees (CUPE) New Brunswick in April, the union passed a resolution to lobby the government to enact legislation that would require companies to honour collective agreements when bidding to take over services.

CUPE developed its resolution after St. Thomas University (STU) "flipped" its contract for custodians in August 2020 to a new company. In New Brunswick, when STU or other organizations flip a service contract to a new company, the unionized employees of the previous company lose their union status.

A worker then has to reapply for their job with the new service company. They might not get a job, or, If they do get the new job, they might need to change their union, or they could be left without a union and collective agreement to protect their rights as workers.

The custodians at STU had been working for Aramark and were represented by CUPE Local 5083, with a collective agreement expiring in June 2021. When STU flipped the contract, some custodians were not re-hired by the new company.

The new company is GDI Services, a competitor to Aramark. Both are multinational companies with offices across Canada. Both companies have some worksites with unionized workers and other worksites with non-unionized workers. All the STU custodians now with GDI do not have a union.

CUPE attempted to retain the right to represent the workers now with GDI by bringing their dispute to the New Brunswick Labour and Employment Board. On February 24, the Board ruled against CUPE. This means that CUPE has to re-organize the "new" workforce.

The same thing happened to CUPE workers at Mount Allison University many years ago. In that case, the workers were with Sodexo, and the contract was flipped to Aramark. "That was a group that had to re-organize and start all over again," said Stacy Delaney, the CUPE servicing representative for New Brunswick and PEI who is now working to re-organize the STU custodians.

In his book, *If You're In My Way, I'm Walking: The Assault on Working People since 1970*, University of New Brunswick (UNB) Professor Thom Workman describes a similar incident that occurred in the mid-1990s at UNB when the university flipped cleaning services to a new provider.

"Predictably, the former cleaning workers lost their jobs or experienced drastic pay cuts. A decade later, there is little threat that the new cleaners will ever form a union. The office of a unionized employee is now cleaned by a poorly-paid, non-unionized female who is employed by a contracted cleaning company," wrote Workman. Noting that as he was writing, a cleaner entered his office, he added: "The essence of neoliberalism just walked through the door with a broom and a dustpan!"

What about union solidarity? STU and UNB share a campus at the top of the hill overlooking the City of Fredericton. On the campus, there are many unions, including for university professors earning some of the highest unionized wages in the province. The United Campus Labour Council (UCLC) is open to all the unions on the joint UNB-STU campus. However, a UCLC representative contacted for this story said the Council wasn't active at the time St. Thomas University flipped the custodial contract.

Thom Workman recalled an incident from the time the University of New Brunswick flipped the contract for cleaning services. "I still remember the mid 90s, workers coming into my office crying, asking us to sign a petition. And they held the demonstration outside the Arts Building. And only one faculty member went down. And as I said in my book, I'm sorry to say it wasn't me."

Neoliberalism includes a multi-pronged attack on organized labour, said Workman, "and union solidarity has gone down considerably. It's been eroded and corroded in the last 25 years. Solidarity now is usually reduced to the pathetic display of posting something on Facebook."

The prevalence of contract flipping at universities, and the threat the tactic represents to organized labour in New Brunswick more generally, is a growing concern, according to CUPE's Delaney.

Ensuring that revisions are made to New Brunswick's labour code, the Employment Standards Act, to protect workers during a contract flip "will certainly be a lengthy process," said Delaney. The current Higgs government has a history of anti-union practices.

However, the first step toward legislative change is to advocate for it, and by voting to do that at its April AGM, CUPE signalled its willingness to make the change happen.

The same day at the convention, delegates elected Steve Drost as the new president of CUPE NB for a two-year term and Sharon Teare as first vice-president for a one-year term. Drost and Teare will join Kim Copp, CUPE NB Secretary Treasurer, on the inner executive. The new team will have their work cut out for them but as seasoned union leaders and activists, they should be well up for it.

Susan O'Donnell writes for the NB Media Co-op, mostly on labour, environmental and feminist issues.

Rental review highlights need for strengthened tenant protections

By ADITYA RAO

There are 1,796 people in Saint John on a waiting list for affordable housing, according to the Human Development Council's 2018 Progress Report on Homelessness. Photo by Bonnie Glynn.

Imagine getting an eviction notice on the second day after you move into your new apartment. That's what happened to one tenant who contacted the New Brunswick Coalition for Tenants Rights after moving to New Brunswick from Nova Scotia at the beginning of this year. After struggling to find a place to rent, they took possession of a unit in a state of some disrepair under promises from the landlord that the necessary repairs would be done. Instead, on their second day, the landlord issued an eviction notice saying the notice was just a formality. When the tenant subsequently raised issues with respect to the cleanliness and disrepair, the landlord simply asked them to leave, relying on the eviction notice.

Another tenant told us about a rent increase notice they received. The landlord gave them a month's notice, but the tenant knew that the legal notice requirement for a rent increase is two months on a month-to-month lease. Upon pointing this out to the landlord and demanding legal notice, the tenant was promptly handed a one-month eviction notice.

These are just two stories from dozens we have heard: A senior citizen in Fredericton who received a 50 per cent rent increase notice, a man forced to move from Miramichi to Saint John to help his mother find a place to live after she was forced out by a rent increase, an entire building given eviction notices simply because the new owners wanted to make more money, tenants in Moncton forced out of their homes because they could not afford to pay exorbitant rent increases.

All permitted by the law.

Tenants have had enough of this wild west approach to housing in this province. Under pressure from tenant advocacy groups, the government initiated a 90-day review of the rental market situation.

The report, released on May 7th, confirms these stories.

According to the report, 42 per cent of the landlords who responded said they increased rents simply because they got new tenants. Twenty percent of tenants said they were denied housing because they had children – a human rights violation. Forty-seven per cent said their rental units were in "very bad condition."

Over the last ten years, rents have increased by nearly 27 per cent on average across the province, with the report noting that New Brunswickers "are making hard choices to stay housed" and that "New Brunswickers feel unprotected" by the law. One tenant quoted in the report says, "there are several days in the month in which I cannot eat."

Despite all this evidence, and after having heard from over 4,600 tenants, the report concludes that there is no crisis facing tenants in the province. How many tenants must be evicted by profit hungry investment companies before the government will pull its head out of the sand?

Tenants have been clear: we need a complete overhaul of the *Residential Tenancies Act* to protect the right to housing, a robust rent control regime and strong protections against evictions. Of these demands, the report recommended one: a review of the law.

Landlords and corporate economists, however, say the answer lies elsewhere. They say we must remove the so-called "double tax" – a provincial property tax levied on rental properties, in addition to municipal property taxes. They say that if the province removed this tax, the savings would trickle down to tenants.

But as St. Thomas University Professor Kristi Allain has pointed out in an article published by the NB Media Co-op, "Is New Brunswick's so-called 'double tax' increasing your rent?", this debate is a red herring. There is no guarantee that landlords will lower rents if they are given a tax break. And while there are some that promise to freeze rents if given this tax break, relying on the benevolence of profit-seeking businesses to act in the public interest is a fool's errand.

We need policy solutions proven to work to protect the right to housing, not wishful thinking about tax cuts being silver bullets.

That's why we are calling for a strategy to rein in Real Estate Investment Trusts and large investors who are interested only in profit, not affordability. These companies are proliferating in New Brunswick because of weak tenant protections. Their business model relies on driving up rents by converting affordable housing units into high income apartments often by evicting original residents.

That's why we are demanding eviction protections that guarantee the right of tenants to live in their home without the fear that they may be asked to leave arbitrarily and often for no other reason than corporate greed.

That's why we need a robust rent control regime to stop predatory businesses from wantonly increasing rents, forcing people who cannot pay these exorbitant rents out of their homes.

And it is past time we stopped pretending that market-based solutions are the answer to build affordable housing. We have tried to rely on the private sector, and the private sector has failed.

This blind faith in market-based solutions is coming at the cost of human lives. We need a right to housing approach to protect tenants.

The rental review report recommended a review of the legislation governing tenancies and it was a recommendation we were pleased to see. The ball is now in the Premier's court.

Aditya Rao is a human rights lawyer and an organizer with the New Brunswick Coalition for Tenants Rights.

A version of this article was published by Brunswick News on May 12, 2021.