

**ONTARIO
LABOUR RELATIONS BOARD**

**ANNUAL REPORT
1980-81**



ONTARIO LABOUR RELATIONS BOARD

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Alternate Chairman K.M. BURKETT

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MESSAGE of THE CHAIRMAN



It gives me great pleasure to introduce the Board's first ANNUAL REPORT. The publication provides an excellent overview of the Board's activities during fiscal year 1980-81. It also contains a helpful summary of the Board's structure and biographical sketches of members and vice-chairmen. I congratulate our solicitors for the obvious effort required to assemble the document – a responsibility that will now reside with Solicitor's Office on an ongoing basis.

Fiscal year 1980-81 was marked by an ever increasing caseload matched by the increasing effectiveness of the Board's labour relations officers in achieving settlements. Without their good offices and the equally important good faith efforts of the parties, the Board would require substantially more resources to process the matters before it with the same expedition. Moreover, the Board is committed to settlement activity as the preferable method for resolving labour relations conflict. On the other hand, fiscal year 1980-81 continued to witness an unfolding of new and more extensive remedies for unfair labour practice violations evidencing the Board's dedication to a serious enforcement of important statutory rights. Vice-Chairmen and Board Members provided thoughtfully reasoned decisions in a number of important cases, the highlights of which are reviewed in this report. In my opinion, their work over the previous years demonstrates why this Board continues to be one of the most highly respected administrative agencies in the country.

The year also saw the introduction of new internal administrative arrangements aimed at greater effectiveness in case monitoring and processing; a refinement of the Board's waiver of hearing certification program; an expansion of staff development programs; and the initiation of a number of co-operative activities with labour and management groups. The Board and the Labour Law Subsection of the Ontario Branch of the Canadian Bar Association jointly sponsored a lecture by John Fanning, Chairman of the U.S. National Labour Relations Board, at the Subsection's meeting held in December, 1980. I am also very pleased with the success of the cross-assignment program with labour and management involving our labour relations officers. These exchanges have provided new insights and awareness to the individual participants as well as to the participating organizations. All signs point to a continuation of these activities. A related exchange with the Conciliation and Mediation Branch of the Ministry of Labour has proved equally successful.

On behalf of the Board I want to thank all members of the staff for their vital support over the past year and the labour/management community for its continuing co-operation.

George W. Adams
Chairman

I INTRODUCTION

This is the first time, since its inception that the Ontario Labour Relations Board has published its own Annual Report. In previous years, the only review of the Board's activities has been by way of a brief note in the Ontario Ministry of Labour Annual Report.

In view of the ever-expanding role played by the Board and its increasing work-load, there is a need for more substantial information on its yearly progress. This Annual Report is intended to fill such a need. The first volume covers the fiscal year April 1, 1980 to March 31, 1981.

The main purposes of the Board's Annual Report are: to provide a statistical summary of the work-load carried by the Board during the year; to highlight some of the more important decisions of the Board; and to provide a brief report of court activity involving Board proceedings or Board orders. The Report will also contain up-to-date information on the organization of the Board, its personnel, and administrative developments that may be of interest to the public.

Since this is the first Board Annual Report, it contains a brief account of the history and development of *The Labour Relations Act*, as it affected the development of the Ontario Labour Relations Board.

II A HISTORY OF THE ACT

In 1943, the Ontario Legislature engaged in one of the first attempts in Canada to institute an effective scheme of compulsory collective bargaining. *The Collective Bargaining Act, 1943*, S.O. 1943, c. 4 came about as a result of public hearings before a select committee of the Provincial Legislative Assembly. Although the establishment of a "Labour Court" was not strenuously lobbied for by any of the interest groups which made submissions to the Select Committee, it was this option which the Select Committee saw fit to endorse. The Committee's report, in the form of a draft bill, was submitted to the Legislature on March 25th, 1943, and when enacted on April 14th, 1943, legitimized collective bargaining in Ontario under the Ontario Labour Court, which was a division of the Supreme Court of Ontario.

The Act of 1943 abolished the common law doctrines of conspiracy and restraint of trade as they had applied to trade unions, and gave employees a right to participate in union activity. A union was permitted to apply for certification as the bargaining agent for a group of employees. The Court had power to ascertain the appropriate unit for the purpose of collective bargaining. It has been pointed out that:

"... the shape and structure of the collective bargaining system was to be determined by a court which was expected to develop policies that would promote orderly collective bargaining. It was recognized that the scheme of the Act involved both administrative and judicial functions. The Court was also empowered to delegate its non-judicial responsibilities so that it could develop an administrative infra-structure to support its 'judicial' role." (MacDowell, R.O., "Law and Practice before the Ontario Labour Relations Board, (1978), 1 Advocate's Quarterly 198 at 200.

The Act contained several features which are standard in labour relations legislation today – management dominated organizations could not be certified; managerial employees were excluded from the Act; employers could not discriminate against employees for participation in union activity; employers were required to recognize a certified bargaining agent; and there was a duty to bargain in good faith. The Labour Court had broad remedial powers – something which the Ontario Labour Relations Board would not have for many years. The Labour Court was the only forum for resolution of disputes arising under a collective agreement. This function was to be performed without cost to the parties. It is now performed by private boards of arbitration, and, when the disputes arise in the construction industry, by the Labour Relations Board.

The Ontario Labour Court was to have a short lifespan (it opened in June, 1943, and heard its last case in April, 1944). In his book, *The Ontario Labour Court 1943 - 1944*, (Queen's University Industrial Relations Centre, Kingston, 1979), John A. Willes gives the following reasons for the Court's early demise:-

"... the trade unions were complaining about the high cost of proceedings before the Court, the Judges were not eager to deal with labour matters under the Act, and most important, the Conservative party, that had promised to repeal the legislation if elected, formed the government in Ontario in the Spring of 1944."

The immediate circumstances which brought about the demise of the Labour Court (and hence the formation of a Board) was a wartime move by the Federal Government to centralize labour relations law. Owing to the division of powers between the Dominion and Provincial Governments, control over labour relations in Canada is shared between the two levels of government depending on whether the undertaking falls under Federal or Provincial jurisdiction. In 1907, the Federal Government attempted to bring labour disputes in public utilities and coal mines under Federal control by means of *The Industrial Disputes Investigation Act*. Disputes in other industries were often brought voluntarily within the provisions of the Act. In 1925 this Act was held by the Privy Council to be *ultra vires* the Dominion Parliament because it infringed on the Provincial power over "property and civil rights." (*Toronto Electric Commissioners v. Snider*, [1925] A.C. 396; [1925] 2 D.L.R. 5)

The Act was subsequently narrowed so as to encompass only those industries within the Federal jurisdiction. This left labour relations largely in the hands of the Provincial legislatures, although by virtue of a clause in the Federal Act, Provinces could, in effect, "opt in" to the Federal system (all the Provinces except Prince Edward Island exercised this option for a time). However, given the constitutional situation in Canada, decentralization of labour policy was inevitable and the Ontario regime was representative of this decentralization. However, the fact that Canada was at war allowed the Federal Government to rely on its emergency power to pass Order in Council P.C. 1003. This Order adopted the general principles of the American *Wagner Act*, and called for an independent regulatory authority. The Ontario Labour Court was replaced by the Ontario Labour Relations Board, pursuant to *The Labour Relations Board Act*, 1944, S.O. 1944, c. 29, which was subject to the federal Wartime Labour Relations Board. The chairman of the fledgling Ontario Board was Jacob Finkleman, who had been the registrar of the Labour Court.

In 1947, the Ontario Labour Relations Board became independent of the Federal Government by virtue of *The Labour Relations Board Act*, 1947, S.O. 1947, c. 54. The next year, *The Labour Relations Act*, 1948, S.O. 1948, c.51, was passed. The 1948 Act, which was enacted in anticipation of new Federal legislation, repealed the earlier *Labour Relations Acts* and empowered the Lieutenant-Governor in Council to make regulations "in the same form and to the same effect as that . . . Act which may be passed by the Parliament of Canada at the session currently in progress. . . ." This Act was basically transitional in nature, since work was already under way on the drafting of separate Provincial legislation, which made its first appearance in *The Labour Relations Act*, 1950, S.O. 1950, c. 34.

The major function of the Board was, and still remains, certifying trade unions as bargaining agents. The history of the Board is largely a history of the acquisition of new powers and functions, as new ways of dealing with the problems inherent in industrial relations developed. Initially, however, the Board's role was fairly limited. There was no enforcement mechanism at the Board's disposal in 1950. The major enforcement method was prosecution, in which case the Board had to grant consent to prosecute. The Board had the power to declare a strike or lockout unlawful, but this in itself fell short of being a very complete remedy. In a situation where an individual had been refused employment, discharged, discriminated against, threatened, coerced, or otherwise dealt with contrary to the Act, the appropriate remedy lay in an inquiry by a conciliation officer who then reported to the Minister who in turn could make an appropriate order.

Thus, outside of granting certifications and decertifications, the Board's power was quite limited. The power to make certain declarations, determinations, or to grant consent to prosecute under the Act was remedial only in a limited way. Of some significance during the fifties was the Board's acquisition of the power to grant a trade union "successor" status. (*The Labour Relations Amendment Act, 1956*, S.O. 1956, c. 35). In 1962, the complementary section providing for the preservation of bargaining rights in the case of "successor employers" was passed and was later expanded so as to preserve existing collective agreements. (*The Labour Relations Amendment Act, 1961-62*, S.O. 1961-62, c. 48; *The Labour Relations Amendment Act, 1970*, S.O. 1970, c. 85.)

The Labour Relations Amendment Act, 1960, S.O. 1960, c. 54, made a number of changes in the Board's role. Most importantly, the Board received the authority to order reinstatement with or without compensation. In conjunction with this new power was the power to designate a field officer to investigate complaints. The Board's reinstatement and compensation orders could be filed in the Supreme Court of Ontario and were enforceable as orders of that Court. The Board also received the power to refer jurisdictional disputes to a new jurisdictional disputes commission which had the power to make interim orders or directions. The Board was given limited power to review the directions. As with the Board's reinstatement and compensation orders, the interim orders could be filed with the Supreme Court and thus become enforceable as orders of that Court. The Board also received the power to set a terminal date for the filing of membership evidence and evidence opposing certification, and the discretion to refuse to "carve out" a craft unit where there was a history of industrial organization in a plant. In 1960 provision was also made for pre-hearing representation votes.

In 1962, *The Labour Relations Amendment Act, 1961-62*, added new provisions to the Act in order to respond to unique problems which were evident in the construction industry. This industry was given a separate but somewhat similar regime under the Act in response to recommendations made in the "Goldenberg Report" ("*Report of The Royal Commission on Labour Management Relations in the Construction Industry*," March, 1962). Provision was made for determination of bargaining units by reference to geographic areas rather than particular projects. The Board, in consultation with interested parties, divided the province geographically for the purpose of certification in the construction industry. Labour policy with regard to the construction industry has continued to evolve. Legislation was introduced in 1977 to provide for province-wide bargaining in the industrial, commercial, and institutional sector of that industry in response to the recommendations contained in the "Franks Report" ("*Report of the Industrial Inquiry Commission into Bargaining Patterns in the Construction Industry in Ontario*," May, 1976). (*The Labour Relations Amendment Act, 1977*, S.O. 1977, c. 31.) Further amendments were made to the Act in relation to the construction industry in 1979 and 1980. *The Labour Relations Amendment Act, 1979* (No. 2), S.O. 1979, c. 113, and *The Labour Relations Amendment Act, 1980*, S.O. 1980, c. 31, extended the bargaining rights held by trade unions in the construction industry for any particular employer in relation to the industrial, commercial and institutional sector of the industry; prohibited selective strikes and lock-outs; and provided for an expeditious ratification procedure.

In 1970, by virtue of *The Labour Relations Amendment Act, 1970*, the Board received a significant extension to its remedial authority. Provision was made for authorization of a Labour Relations Officer to inquire into certain complaints with a view to settling the matters. The most interesting addition to the situations in which the Board could make remedial orders

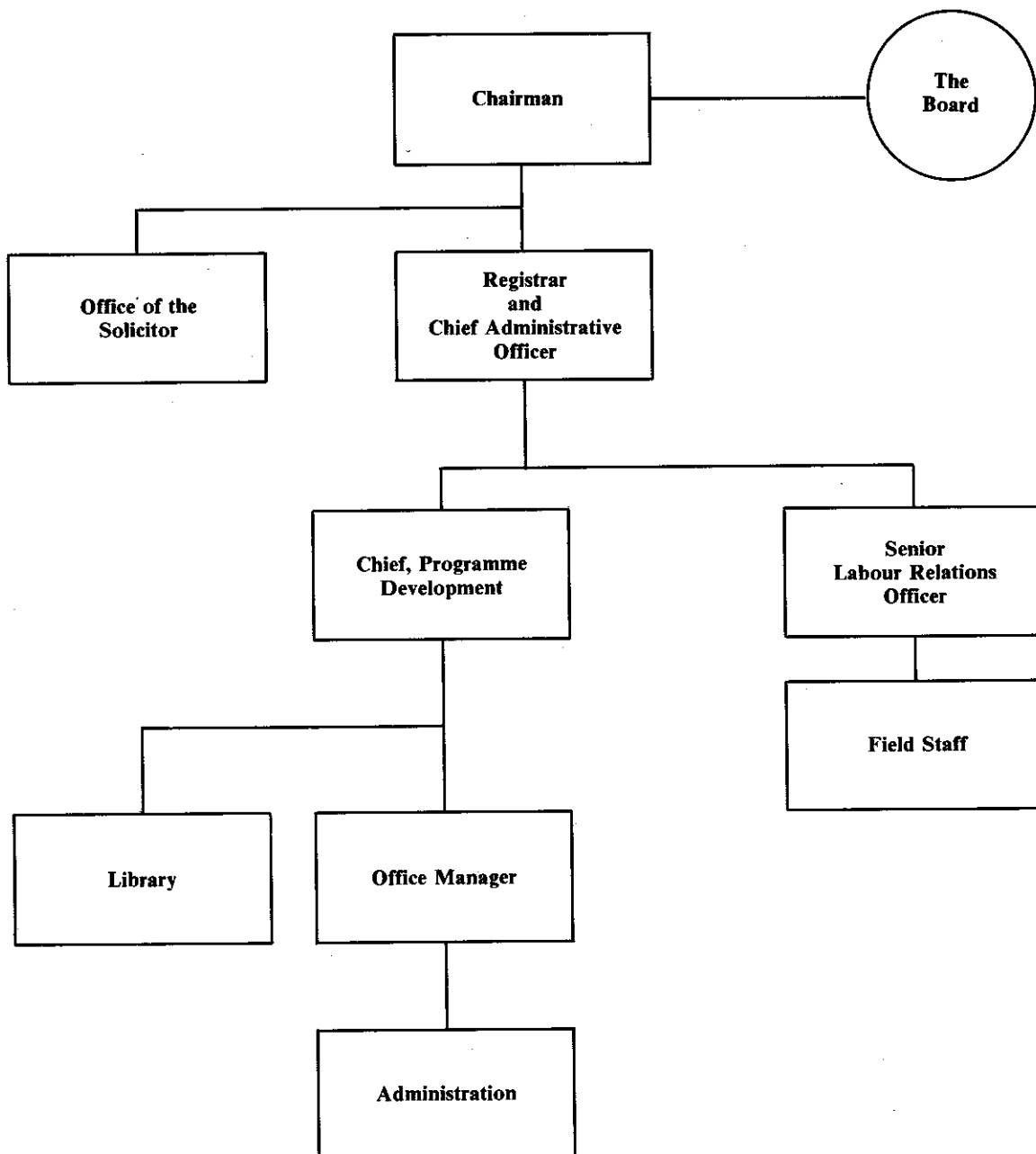
was in the case of a breach of the newly created "duty of fair representation." This duty, imposed on trade unions, required them not to act in a manner which was arbitrary, discriminatory, or in bad faith in their representation of employees for whom they hold bargaining rights. More recently, this duty has been extended to cover referral of persons to work. The Board also received the power to make "cease and desist" orders with respect to unlawful strikes and lock-outs in the construction industry, which would be filed with the Supreme Court and enforceable as orders of the Court.

A major increase in the Board's remedial powers under *The Labour Relations Act* occurred in 1975. (*The Labour Relations Amendment Act, 1975*, S.O. 1975, c. 76). The Board was permitted to authorize a Labour Relations Officer to inquire into any complaint alleging a violation of *The Labour Relations Act*. A settlement reached by the parties and put into writing was binding on the parties, and a breach of such settlement could be dealt with in the same fashion as a breach of a provision of the Act. The Board's remedial powers were extended to all violations of the Act, and orders of the Board were enforceable in the same way that an order of the Supreme Court is enforceable. The Board also received authority to make "cease and desist" orders with respect to any unlawful strike or lock-out. It was in 1975 as well, that the Board's jurisdiction was extended through section 112a, to enable it to determine grievances in the construction industry referred to it by one of the parties to a collective agreement.

In June of 1980, *The Labour Relations Amendment Act, 1980 (No. 2)*, S.O. 1980, c. 34, was passed providing for compulsory check-off of union dues and the entitlement of all employees in the bargaining unit to participate in ratification and strike votes. Provision was also made for the Minister of Labour to direct a vote of the employees in the bargaining unit on their employer's final offer at the request of their employer.

III BOARD ORGANIZATION

The following is an abbreviated organizational chart of the Ontario Labour Relations Board:



IV THE BOARD

The legislative policy regarding labour relations in the Province of Ontario is set out in the preamble to *The Labour Relations Act* as follows:

"...it is in the public interest of the Province of Ontario to further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between employers and trade unions as the freely designated representatives of employees."

With this policy as a basis, the Act confers on the Ontario Labour Relations Board the authority over many important aspects of collective bargaining such as unfair labour practices, unlawful strikes and lock-outs and jurisdictional disputes. In order to carry out this mandate the Board is composed of a Chairman and an Alternate Chairman, several Vice-Chairmen and a number of Members representative of labour and management respectively in equal numbers. These appointments are made by the Lieutenant-Governor in Council.

Created by statute, the Ontario Labour Relations Board is best described as a quasi-judicial body, combining as it does, administrative and judicial functions. The Board attempts to avoid being overly technical or legalistic in making its determinations and relies heavily on the efforts of its Labour Relations Officers in encouraging settlements without the need for formal hearings. The Board strives to keep its procedures informal, expeditious and fair.

The Board, under section 95(1) of *The Labour Relations Act*, R.S.O. 1970, c. 232, has the exclusive jurisdiction to exercise the powers conferred upon it by or under the Act and to determine all questions of fact or law that arise during any hearing before it. The Board's decisions are not appealable and a privative clause in the statute limits the scope for judicial review. However, the Board has the power to reconsider any of its decisions, either on its own initiative or at the request of an affected party.

The Board has the power to determine its own practices and procedures. The publication entitled *Rules of Procedure, Regulations and Practice Notes* (Queen's Printer, Ontario) contains the established regulations, procedures and practices of the Board.

The Ontario Labour Relations Board has a somewhat limited role to play with respect to much of the collective bargaining viewed as falling within the public sector. For example, the Board does not have jurisdiction over crown employees, policemen or firemen, and has only a limited jurisdiction with respect to teachers in the schools and community colleges in the province. See, *The School Boards and Teachers Collective Negotiations Act*, S.O. 1975, c. 72 and *The Colleges Collective Bargaining Act*, S.O. 1975, c. 74. On the other hand, the Board has full jurisdiction over employees employed by municipalities and hospitals. The Board is also given an important role under *The Occupational Health and Safety Act*, 1978, S.O. 1978, c. 83.

Apart from its adjudicative function, the Board's operations may be broadly divided into the following sections: (a) Administrative Division, (b) Field Services and (c) Office of the Solicitor.

(a) ADMINISTRATIVE DIVISION

The Registrar and Chief Administrative Officer is the senior administrative official of the Board. He is responsible for supervising the day-to-day administrative and field operations of the Board. Every application received by the Board enters the system through the Registrar's office. He determines the hearing dates, assures the effective and speedy processing of each case and communicates with the parties in all matters relating to the scheduling of hearings, the holding of votes or particular problems in the processing of any given case.

The Ontario Labour Relations Board is faced with a substantially increasing caseload, constraints on its access to public funds, and the continuing demands of the parties appearing before it for quick justice. Faced with these conflicting pressures, the ability of the Board to efficiently manage its caseload, within the resource parameters set for it, underpins much of its contribution to labour relations harmony in this province.

The Chief, Programme Development and the Senior Labour Relations Officer report directly to the Registrar and Chief Administrative Officer. The former manages the day-to-day administrative operation and the latter the field services. An Administrative Committee comprised of the Chairman, Alternate Chairman, Registrar and Chief Administrative Officer, Chief, Programme Development, Senior Labour Relations Officer and Office Manager meets monthly to discuss all aspects of Board administration and management.

The administrative areas of the Board, include: office management, case monitoring, and library.

1. Office Management

An administrative support staff of approximately 63 people, headed by an Office Manager who reports to the Chief, Programme Development, and a senior clerical supervisor, processes all the applications received by the Board.

Four primary sections deal with applications:

- (1) The certification section handles all applications for certification, termination and accreditation.
- (2) The sundry section processes all other applications including unfair labour practice complaints, grievances in the construction industry and illegal strike and lock-out proceedings.
- (3) The vote section deals with all representation votes.
- (4) The clerks section reviews evidence in support of, or opposition to, trade unions filed with the Board in certification and termination applications and prepares the material necessary for the Board to conduct hearings and when necessary, attends hearings to assist the Board.

The bulk of the Board's caseload is made up of applications for certification, unfair labour practice complaints and referrals to arbitration of construction industry grievances. In this fiscal year the Board received a total of 2,836 applications and complaints.

The Registrar's office is responsible for setting hearing dates for all cases and maintaining and up-to-date availability roster of all Vice-Chairmen and Board Members for scheduling purposes. To assist the Registrar with these duties the Board has recently created the position of Registrar's Clerical Assistant.

2. Case Monitoring

Because delay in case handling directly affects the Board's objective of disposing of all cases as quickly and efficiently as possible, a case monitoring and control system was developed in fiscal year 1980-81. The control system was initiated after studying a representative period and assessing how long the average case should take at each stage of its processing, from application to disposition. Control dates have been established at each stage of processing for different types of cases.

By monitoring cases on a day-to-day basis, the Board is able to pinpoint problems and delays and address them quickly. The monitoring system and its reports provide vital statistical information to senior management that is used as a basis for recommendations regarding improvements or changes in Board practices and procedures which can lead to increased productivity and better service to the community.

3. The Library

The Ontario Labour Relations Board library employs a full-time professional librarian and a library technician to manage a collection of approximately 750 texts, 150 journals and 25 case reports in areas of industrial relations, labour, contract, evidence, constitutional and administrative law. The collection includes decisions from other jurisdictions, including the Canada Labour Relations Board, the National Labour Relations Board and provincial labour boards from across Canada.

The library staff provides research services for Board staff and assists the library users.

A card index to the Board's monthly Decision Report provides easy access to reported decisions by case name, subject, statute, file number and cases considered.

(b) FIELD SERVICES

The Board believes that the objects of the Act are best served if labour relations disputes are resolved on the basis of mutual accommodation between the parties. Towards this end, the Board provides settlement assistance to the parties in most matters brought before it. Seventeen highly skilled Labour relations Officers, under the direction of a Senior Labour Relations Officer, provide this service. Five of the most experienced officers have been appointed group leaders in order to assist the Senior Labour Relations Officer with the administration of this section.

1,490 case assignments were made to Labour Relations Officers in fiscal year 1980-81. The assignment load increased by some 321 cases in fiscal 1980-81 over fiscal 1979-80. The complement of officers remained unchanged over the year.

The assignments made to Labour Relations Officers fall into four broad categories:

1. Certification

The Board holds to the view that the less confrontation and formal disagreement occasioned by an application for certification, the better the atmosphere for the negotiation of the first agreement. In keeping with this view, the Board has moved to make greater use of its settlement officers in certification proceedings.

(i) Waiver of Hearing

The Board instituted a waiver of hearing procedure in respect of certification applications in fiscal year 1980-81. Under this procedure a Labour Relations Officer is assigned responsibility for reviewing the filings in each application and, in conjunction with the Senior Labour Relations Officer, making an assessment as to which cases appear to be uncontested. Where the parties appear to be in agreement, or close to it, with respect to the description of the bargaining unit, and where there are no discrepancies with respect to the documentary evidence filed with the application, the Labour Relations Officer contacts the parties to ascertain if it is necessary to hold a formal hearing. In those cases where the parties agree to waive a hearing, the application is disposed of on the basis of the materials and evidence filed with the application. In fiscal year 1980-81 the parties were contacted in 269 cases and given the opportunity to waive a formal hearing. In 205 cases, or 76% of the cases considered to be appropriate for waiver, no formal hearing was required.

(ii) Hearing Day Activity

The Board hears all certification applications on the same day of the week so as to facilitate its settlement efforts. A team of Labour Relations Officers, under the direction of the Senior Labour Relations Officer and a group leader, are assigned to certifications each week. These officers are briefed as to the contentious issues in the 20 to 25 certification applications scheduled to be heard by the Board each week and assigned individual cases. They attempt to resolve disputes related to the identity of the employer, the description and composition of the bargaining unit, and the number of employees within the bargaining unit. 182 of the 292 cases assigned to officers on the day of the hearing in fiscal year 1980-81 were disposed of on the basis of agreements between the parties.

(iii) **Examinations:**

In those certification cases where the parties are unable to identify the employer, or to agree on the scope or composition of the bargaining unit, or on the number of employees coming within the bargaining unit, a Labour Relations Officer is usually appointed to meet with the parties subsequent to the hearing day and inquire into the matters in dispute. The inquiry takes the form of a hearing chaired by the Labour Relations Officer. The Officer calls and examines witnesses who have knowledge of the matters in dispute. The parties are given the opportunity to cross-examine the Board's witnesses and to call their own, if they wish. The evidence is transcribed on tape and a record compiled for use by the Board in making its determination. 247 examination assignments were made to Labour Relations Officers in fiscal year 1980-81. 94 reports were submitted to the Board. In the remaining 153 cases the issues in dispute were settled with the assistance of the officer during the course of the inquiry so that a formal report was not required.

2. Unfair Labour Practices:

Each unfair labour practice complaint filed with the Board is scheduled for hearing within 28 days of the date of filing and assigned to a Labour Relations Officer. The Labour Relations Officer is responsible for assisting the parties to resolve the dispute and in so doing works to the time limit established by the fixed hearing date. 736 unfair labour practice assignments were made to Labour Relations Officers in fiscal year 1980-81, up 139 assignments over the previous year. The Board's officers provide settlement assistance in a wide range of unfair labour practice complaints including:

- alleged discriminatory treatment (including discharge from employment) for union activity.
- alleged bargaining in bad faith.
- alleged unlawful strikes and lock-outs.
- alleged breaches of the duty of fair representation.

With the Board moving to more complex and far-reaching remedies in unfair labour practice cases, the role of the Labour Relations Officer has been expanded to include a post-hearing involvement. For the first time Labour Relations Officers were assigned to assist the parties with the implementation of Board remedial orders in fiscal year 1980-81.

The effectiveness of the Board's officers is attested to by the fact that 80% of the unfair labour practice complaints filed with the Board in 1980-81 were resolved between the parties without the need for a formal hearing.

3. Construction Industry Grievances:

The Act was amended in 1975 to provide that either party to a construction industry collective agreement could refer a grievance concerning the interpretation, application, administration, or alleged violation of the agreement to the Board for final and binding determination. The number of such grievances referred to the Board has grown steadily and reached 507 in fiscal year 1980-81. A Labour Relations Officer is assigned to meet with the parties in each of these cases and attempts to mediate a settlement to the dispute. 90% of the construction industry grievances disposed of by the Board in 1980-81 were resolved, with the assistance of an Officer, without the need for a formal hearing.

Approximately 80% of the matters coming before the Board this year were disposed of with the assistance of a Labour Relations Officer and without the need for a hearing. In response to a case load growing in both volume and complexity, the Board's field staff provided the basis for the overall level of performance of the Board in fiscal year 1980-81. More importantly, during this period the Board's field staff made a marked contribution to sound and harmonious labour relations within the province.

(c) OFFICE OF THE SOLICITOR

The Office of the Solicitor, under the direction of the Senior Solicitor of the Board, reports directly to the Chairman. A solicitor assists the Senior Solicitor in carrying out the functions of this office. In addition, each year the Board employs several articling law students to assist in the solicitors' work.

The Office of the Solicitor is responsible for providing the legal assistance required by the Board in all facets of its operations. The solicitors engage in legal research and provide legal advice to the Chairman, Vice-Chairmen and Board Members in their day-to-day functions. They provide legal opinions to the Board and prepare memoranda relating to the wide variety of legal issues that arise during Board proceedings. The Office of the Solicitor is responsible for preparing all of the Board's legal forms and other legal documents required for use by the Board. Board procedures, practices and policies are constantly reviewed by the Office of the Solicitor. When preparation or revision of practice notes, Board Rules or forms become necessary, the Office of the Solicitor is responsible for undertaking those tasks.

The Senior Solicitor is active in the staff development programme of the Board and the solicitors regularly meet with the Board's field staff to keep them advised of legislative, Board and judicial developments that may affect their day-to-day work. The solicitors are available for consultation by these officers on legal issues that may arise in the course of their work. At regularly scheduled field staff meetings, the solicitors prepare written material for distribution and discussion among the field staff relating to recent decisions of the Board or other tribunals which may affect the discharge of their duties. The Senior Solicitor also advises the Board Librarian on the legal research material requirements of the Board and on the library's general acquisition policy.

Another function of the Office of the Solicitor is the representation of the Board's interest in court, when matters involving Board proceedings or Board orders become the subject of proceedings in court, as when an application for judicial review of a Board order is filed or an application is made by way of stated case to the Divisional Court. Where outside counsel is

retained to represent the Board, the Senior Solicitor in consultation with the Chairman, briefs and instructs such counsel on the Board's position in relation to the issues raised by the judicial proceedings. The Office of the Solicitor is also responsible for the preparation and compilation of documents that the Board may be required to file with the court in relation to such proceedings.

The Office of the Solicitor maintains an information service through which any person may obtain, by telephone, general information relating to *The Labour Relations Act*, the Regulations, procedures and practices of the Board, and other related legislation. It is also possible for a member of the public to obtain such information at a personal interview with a member of the Board's legal staff. The solicitors also receive and respond to written inquiries coming from the public.

The Office of the Solicitor is responsible for the publication of the Ontario Labour Relations Board Report, a monthly series of selected Board decisions which commenced in 1944. The Senior Solicitor is Editor of this publication. That office also produces a publication titled "A Guide to the Ontario Labour Relations Act", which is an explanation in laymen's terms, of the major provisions of the Act. The solicitors of the Board are responsible for the periodic revision of this publication. Commencing with this first issue, the Office of the Solicitor has also undertaken the responsibility for the preparation of the Board's Annual Report.

Board Personnel

In the year under review, the Board consisted of the following persons:

GEORGE W. ADAMS *Chairman*

Appointed Chairman of the Ontario Labour Relations Board effective September 1, 1979, Mr. Adams holds degrees of B.A. (McM) 1967, LL.B. (Osgoode, with honours) 1970, and LL.M. (Harvard 1971). His professional background includes: law professor at Osgoode Hall Law School, 1971-78; Vice-Chairman Ontario Labour Relations Board, 1974-75; Assistant Deputy Minister of Labour, Province of Ontario, 1975-77; Vice-Chairman, Ontario Education Relations Commission, 1977-79; Chairman, Ontario Grievance Settlement Board 1977-70; and private practitioner with a Toronto law firm, 1978-79. Mr. Adams is the author of numerous books, monographs and articles, the majority of them relating to labour law. He is an experienced arbitrator, mediator and fact-finder. In the year under review, he acted as special counsel to the Minister of Labour in evaluating criticisms of *The Labour Relations Amendment Act, 1979 (No. 2) (Bill 204)*. His report to the Minister was followed by the passage of *The Labour Relations Amendment Act, 1980 (Bill 73)*. He is a member of the National Academy of Arbitrators and the Law Society of Upper Canada.

KEVIN M. BURKETT *Alternate Chairman*

Mr. Burkett has served as the Board's Alternate Chairman since September of 1979. He was first appointed as a Vice-Chairman of the Board in November of 1975. Mr. Burkett, who holds B.A. and M.B.A. degrees from the University of Toronto, has had much varied experience in industry, trade unions and government prior to joining the Board. Having served as the Research Director/Negotiator of the Civil Service Association of Ontario

(predecessor to the Ontario Public Service Employees Union), from 1968 to 1970, he was appointed a mediator in the Ontario Ministry of Labour in 1970. In 1973 he joined Ontario Hydro as Senior Industrial Labour Relations Officer, a post he held until his appointment to the Board. Mr. Burkett is an experienced arbitrator, mediator and fact-finder, both in the private and public sectors and has experience as a third party neutral in negotiations involving Ontario teachers and the Metropolitan Toronto Police. Mr. Burkett spent most of this fiscal year on a leave of absence from the Board while serving as the Chairman of the Joint Federal-Provincial Inquiry Commission into Safety in Mines and Mining Plants in Ontario.

GAIL G. BRENT *Vice-Chairman*

A part-time Vice-Chairman since 1977, Mrs. Brent graduated in 1965 with a B.A. from the University of Toronto and with a LL.B. from Queen's University in 1968; she was called to the Bar in 1975. Mrs. Brent taught law at Queen's University from 1970 to 1974, and at the University of Western Ontario from 1974 to 1977. She was appointed to the permanent list of approved arbitrators of the Labour-Management Arbitration Commission in 1974, and since 1977 has been an active arbitrator and adjudicator. She has been an arbitrator with the Ontario Police Arbitration Commission since 1974. In 1980 Mrs. Brent was appointed as a Commissioner of both the Education Relations Commission and the College Relations Commission.

E. NORRIS DAVIS *Vice-Chairman*

Mr. Davis, who holds the degree of LL.B. (Sask.) 1938, was first appointed to the Board as an employer representative in 1948. From 1952 to 1953 he served as the Chairman of the Board. In 1953 Mr. Davis left the Board and during the next 15 years held several positions in corporate personnel and industrial relations, including a number of years as President of Carling O'Keefe Breweries of Canada Limited. Mr. Davis returned to the Board as a part-time Vice-Chairman in 1977.

RORY F. EGAN *Vice-Chairman*

Having completed his undergraduate work at St. Michael's College, University of Toronto in 1938, Mr. Egan earned a law degree from the same university in 1945. Called to the Bar in the same year, he engaged in the practice of law, and served for one year as Assistant Crown Attorney in St. Thomas, Ontario. In 1954 he joined A.V. Roe as Legal Assistant to the Vice-President of Industrial Relations. Mr. Egan returned to private practice with a law firm specializing in labour relations law in 1959. In 1963 he left his law practice to devote his time to chairing boards of conciliation and arbitration. Mr. Egan was appointed a Vice-Chairman of the Ontario Labour Relations Board in 1966 and in 1974 was designated Alternate Chairman. He was appointed Chairman of the Ontario Police Arbitration Commission in 1976. Mr. Egan retired from the Board in 1979, but has continued to serve as a part-time Vice-Chairman.

DON E. FRANKS *Vice-Chairman*

Mr. Franks is a graduate of McMaster University (B.A. 1960) and Osgoode Hall Law School (LL.B. 1967). Joining the Board in 1969, he served as its Solicitor. In 1972 Mr. Franks was appointed a Vice-Chairman of the Board. He occupied this position until 1975 when he

was appointed Vice-Chairman of the Construction Industry Review Panel, which position he held until May, 1980. Mr. Franks also served, during 1975-76, as the Commissioner on the Industrial Inquiry Commission into Bargaining Patterns in the Construction Industry in Ontario. The report prepared by him led to the amendment of *The Labour Relations Act* in 1977 which provided for province-wide bargaining in the construction industry. Mr. Franks was also involved in the implementation and monitoring of the province-wide bargaining scheme. In 1978 he was appointed chairman of a conciliation board by the government of Saskatchewan, which resolved a two-month province-wide strike by the Labourers' Union. Mr. Franks returned to the Labour Relations Board as a Vice-Chairman in May of 1980.

RON A. FURNESS *Vice-Chairman*

Mr. Furness graduated from Imperial College, University of London, with a degree of B.Sc. in Mining Geology in 1957 and worked as a geologist in Newfoundland, Quebec, Ontario and Manitoba until 1960. He obtained his LL.B. degree from Osgoode Hall Law School in 1961, was called to the Bar in 1963 and received his L.L.M. from York University in 1968. Mr. Furness first joined the Labour Relations Board as its Solicitor in 1963. He was appointed a Vice-Chairman in 1969.

ROBERT D. HOWE *Vice-Chairman*

Mr. Howe has been a part-time Vice-Chairman since February, 1980. He graduated with a LL.B. (Windsor) in 1972 and was called to the Bar in 1974. From 1972 to 1977 he taught law in the Faculty of Law at Windsor. Mr. Howe practised law as an associate of a Windsor law firm from 1977 to February of 1980. Though presently on leave of absence from the University of Windsor, he continues to teach part-time as a special lecturer in labour arbitration and has authored several publications relating to labour law. Mr. Howe is an experienced fact-finder and mediator in school board-teacher collective bargaining.

RICHARD O. MacDOWELL *Vice-Chairman*

Mr. MacDowell's educational background includes a B.A. (Honours) in Economics from the University of Toronto (1969), a M.Sc. (with Distinction) in Economics from the London School of Economics & Political Science (1970) and a LL.B. from the University of Toronto Law School (1974). He has been associated with the University of Toronto as a lecturer in industrial relations with the Department of Political Economy since 1971 and with the Graduate School of Business since 1976. A former Senior Solicitor of the Board, Mr. MacDowell was appointed to his present position of Vice-Chairman in 1979. He is an experienced arbitrator and has served as a fact-finder in school board-teacher negotiations. Mr. MacDowell also has several publications relating to labour relations to his credit.

MORT G. MITCHNICK *Vice-Chairman*

Mr. Mitchnick was appointed as Vice-Chairman of the Board in November, 1979. A native of Hamilton, Ontario, Mr. Mitchnick graduated with a B.A. from McMaster University in 1967 and completed his L.L.B. at the University of Toronto Law School in 1970. After his call to the Bar in 1972, he engaged in the practice of labour law with a Toronto law firm until his appointment to the Board.

MICHEL G. PICHER *Vice-Chairman*

Mr. Picher holds the degrees of A.B. (Colby College, Maine 1967), LL.B. (Queen's University, 1972) and LL.M. (Harvard, 1974). He was appointed a Vice-Chairman of the Board in 1976. Prior to his appointment, Mr. Picher taught law as Assistant Professor in the Faculty of Law at the University of Ottawa from 1974 to 1976. He is an experienced arbitrator, mediator and fact-finder.

PAMELA C. PICHER *Vice-Chairman*

Mrs. Picher was appointed a Vice-Chairman of the Ontario Labour Relations Board in 1976. She is a graduate of Colby College, Maine (A.B., 1967) and Queen's University (LL.B., 1973). She is presently working towards an LL.M. degree from Harvard University, the required thesis having been completed. Prior to joining the Board, Mrs. Picher was an Assistant Professor at the University of Ottawa Law School. In 1975 she was commissioned by the Law Reform Commission of Canada to write a paper for the Administrative Law Section, which she presented in July, 1976. Mrs. Picher has several other legal publications to her credit and is an experienced arbitrator and fact-finder.

NORMAN B. SATTERFIELD *Vice-Chairman*

Mr. Satterfield joined the Labour Relations Board in October, 1975, as a part-time Board Member representing management. In January of 1978 he was appointed a Vice-Chairman. Mr. Satterfield holds a B.Comm. degree from the University of British Columbia (1949) and a diploma in Industrial Relations from Queen's University (1954). He has been involved in labour relations activities in the brewing, heavy manufacturing and construction industries for over 25 years. Mr. Satterfield is a past Director of the Construction Labour Relations Association of Ontario and a past Member of the National Labour Relations Committee of the Canadian Manufacturers' Association.

IAN C.A. SPRINGATE *Vice-Chairman*

Mr. Springate has been a Vice-Chairman of the Board since May of 1976. He has degrees of B.A. (Sir George Williams, 1968), M.B.A. (McMaster University, 1970) and LL.B. (Osgoode, 1973). Having served his period of articles with the Ontario Labour Relations Board, Mr. Springate was subsequently called to the Bar with honours and practised law with a Toronto firm that specialized in labour law until his appointment as a Vice-Chairman. Mr. Springate taught in the M.B.A. programme at McMaster University as a part-time lecturer in industrial relations from 1973 to 1978. He is an experienced arbitrator.

MEMBERS REPRESENTATIVE OF LABOUR AND MANAGEMENT**HOWARD J.F. ADE**

Mr. Ade was appointed as a management representative Board Member in January, 1972. Having retired from the Royal Canadian Mounted Police in 1957, Mr. Ade joined Standard Industries Limited as its Director of Labour Relations. He has served as Chairman of the Labour Relations Committee of the Canadian Construction Association and the Labour Bureau of the Ontario Federation of Construction Associations. He has also been a

member of negotiating committees and labour relations committees in various sections of the construction industry. Mr. Ade has served as labour relations advisor and consultant to several employers and employer associations in the construction industry.

DAVID B. ARCHER

One of the most senior persons on the Board, Mr. Archer was appointed as a part-time Board Member representing labour in 1948. He is a past president of the Textile Workers' Union (Local 1) and also of the Toronto and Lakeshore Labour Council. Mr. Archer was a vice-president of the Canadian Labour Congress and for several years held the position of President of the Ontario Federation of Labour. The other numerous offices Mr. Archer has held, include Executive Member of the Ontario Economic Council, and Member of the Prime Minister's Advisory Committee on Economic Policy.

BROMLEY L. ARMSTRONG

A well-known civil rights leader, Mr. Armstrong was appointed a full-time Member of the Board representing labour in March of 1980. He has held various positions in unions, including local union representative, union steward, plant committee representative and financial secretary. Mr. Armstrong has actively participated in the activities of numerous ethnic and cultural associations, as founding member in many of them. He has been an executive member of the Canadian Civil Liberties Association since 1972 and was a member of the Advisory Council on Multiculturalism in Ontario from 1973 to 1975. Mr. Armstrong was appointed a Commissioner of the Ontario Human Rights Commission in 1975, which post he held until his appointment to the Board.

T. GEORGE ARMSTRONG

Mr. Armstrong was appointed a part-time Member of the Board representing management in April of 1980. Between 1946 and 1970 he was involved in many aspects of industrial relations as the owner of a heavy construction company.

CLIVE A. BALLENTINE

A full-time Member of the Board representing labour since 1979, Mr. Ballentine has been a member of the Bricklayers Union (Local 2) since 1947. During that time he has held various offices in Local 2, including President from 1958 to 1959. In 1964 Mr. Ballentine was elected the Business Agent of Local 2, and in 1968 became the Business Representative of the Toronto Building and Construction Trades Council. In 1974 he assumed the post of Manager and Financial Secretary of the Council and held that position until his appointment to the Board. Mr. Ballentine is also a past executive Member of the Labour Council of Metropolitan Toronto and was its President between 1975 and 1977. He has served on the Ontario Construction Industry Review Panel and the Ontario Premier's Advisory Committee for an Economic Future.

JOHN D. BELL

Mr. Bell has been a full-time Member of the Board representing management since 1970. He was employed for 33 years at Massey-Ferguson Limited in various personnel and industrial

relations capacities prior to his appointment to the Board. The last position he held at the Company was Director of Personnel and Industrial Relations, Industrial and Construction Machinery Division.

C. GORDON BOURNE

Mr. Bourne has been a part-time Member of the Board representing management since April of 1977. Between 1945 and 1977, he was employed by Molson's Brewery (in Quebec and in Ontario) in various personnel and industrial relations capacities. Among the offices Mr. Bourne held prior to his appointment to the Board include: Director of the Montreal Personnel Association (1952-54); Director (1962-67) and President (1966-67) of the Personnel Association of Toronto; Member of the Canadian Manufacturers' Association Ontario Labour Relations Committee (1963-77); and Member of the Ontario Brewers' Industrial Relations Committee (1955-77).

E. JIM BRADY

Mr. Brady was appointed a part-time Member of the Board representing management in November, 1979. He was employed in various capacities in personnel and industrial relations for 34 years prior to his appointment. He spent the majority of this time at Kimberly-Clark of Canada Limited, where he became Director of Industrial Relations in 1972. In 1975, Mr. Brady was appointed Vice-President of Industrial Relations of the Abitibi-Price Inc. Group.

W. GORDON DONNELLY

Mr. Donnelly was appointed a part-time Board Member representing management in 1979. Having obtained a B.A. (1939) and B.C.L. (1947) from McGill University in Montreal, he practised law in the Province of Quebec. In 1947 he joined the Aluminum Company of Canada Limited, where he progressed from Industrial Relations Supervisor, Shawinigan Works, to Vice-President Personnel and Industrial Relations, Alcan Products Limited, Toronto, Ontario in 1970.

MICHAEL EAYRS

Mr. Eayrs was appointed a part-time Board Member representing management in 1979. A graduate of the University of British Columbia, Mr. Eayrs has had a long career in personnel and industrial relations with companies in British Columbia, Quebec and Ontario, and the West Indies. The positions he has held include: Director of Labour Relations of the Ontario Federation of Construction Associations, 1970; Executive Secretary of the Joint Labour-Management Construction Industry Review Panel, 1972; Director of Industrial Relations, Kaiser Canada, 1974; Manager of Industrial Relations of the SNC Group, 1975; and Executive Director of the Construction Employers Co-ordinating Council of Ontario, 1979. Mr. Eayrs is also a past Chairman of the National Labour Relations Committee of the Canadian Construction Association.

MICHAEL J. FENWICK

Mr. Fenwick was appointed a part-time Board Member representing labour in October, 1976. Since 1940 he has been involved in organizing, negotiating and appearing before arbitration and conciliation boards and has participated in many other facets of union activity.

Employed by the Steelworkers Organizing Committee (CIO), which was later renamed the United Steelworkers of America, between 1940 and 1954 Mr. Fenwick administered the business affairs of the Union's locals in Oshawa, Whitby, Ajax, Bowmanville and Port Hope. In 1954, he was promoted to Assistant to the Director of District 6 and he served in that capacity until his appointment to the Board.

WILLIAM H. GIBSON

Mr. Gibson was appointed a part-time Board Member representing management in 1978. He has been employed by Robert McAlpine Limited since 1954 and is Vice-President of that company with a portfolio that includes the responsibility for labour relations for the Company's operations throughout Canada. Mr. Gibson has been very active in the field of labour relations involving contractors and has held several key positions in various construction contractors' associations.

ANNE S. GRIBBEN

Ms. Gribben, a registered nurse by profession, obtained a B.A. from the University of Toronto in 1968, in addition to her nursing qualifications. Her nursing career at the Toronto Western Hospital included 13 years served in a supervisory capacity. She has served on various committees of both the Canadian Nurses' Association and the Registered Nurses' Association since 1950. An Executive Officer of the former District No. 5, Registered Nurses' Association of Ontario from 1960, during 1964-65 she was involved in its re-organization into the present-day Metro Toronto Chapter. Ms. Gribben joined the Employment Relations Department of the Registered Nurses' Association of Ontario in 1965, and became its Director in 1968. Ms. Gribben relinquished that post in 1974 to become the Chief Executive Officer of the Ontario Nurses' Association. She was appointed a part-time Board Member representing labour in 1975 — the first woman to be appointed as a Board Member of the Ontario Labour Relations Board.

LLOYD HEMSWORTH

Mr. Hemsworth has served as a part-time Member of the Board representing management since August of 1975. Having obtained a B.A. degree (1939) from the University of Western Ontario, he returned to complete a management training course at that university in 1954. Mr. Hemsworth is also a part-time Member of the Public Service Staff Relations Board. Prior to his appointment to the Ontario Labour Relations Board, Mr. Hemsworth held several key positions in the personnel and industrial relations departments at Canadian Industries Limited, Kimberley-Clark of Canada and de Havilland Aircraft. Mr. Hemsworth has presented lectures and papers at numerous universities and seminars.

ALBERT HERSHKOVITZ

Mr. Hershkovitz has served as a part-time Board Member representing labour since 1976. He has been the Business Agent of the Fur, Leather, Shoe and Allied Workers' Union, Locals 82 and 62, since 1956, and a Vice-President of the Ontario Federation of Labour since 1974. In 1977 he became the President of the Ontario Provincial Council, United Food & Commercial Workers' International Union. In addition to holding these offices, Mr. Hershkovitz has been a Member of the Board of Referees of the Unemployment Insurance

Commission since 1960 and for many years has acted as a union nominee on boards of arbitration.

OLIVER HODGES

Mr. Hodges has been a full-time Board Member representing labour since 1967. In 1943, he became the Representative and Director of Education, National Union of Shoe and Leather Workers, CCL. Between 1948 and 1950 he was a Representative of the CCF Labour Committee. In 1950 he became the Hamilton area representative to the Canadian Congress of Labour and he held this office until 1954, when he became the Canadian Director of the United Glass and Ceramic Workers of North America, CLC, AFL-CIO. Between 1965 and 1967 Mr. Hodges served on numerous conciliation and arbitration boards as union nominee. During the period 1943 to 1965, he was a candidate for the CCF and NDP in municipal, provincial and federal elections.

ROBERT D. JOYCE

Mr. Joyce has been a part-time Member of the Board representing management since September, 1977. He joined Canada Packers Limited in 1947 and became its Corporate Relations Manager in 1965. He was also elected to the Company's Board of Directors that year. During his career at Canada Packers, Mr. Joyce was actively involved in negotiation, conciliation and arbitration proceedings and also served on many boards of arbitration as employer nominee. Mr. Joyce has been called upon to serve on commissions and task forces appointed by governments on several occasions. As a member of the Canadian Manufacturers Association Industrial Relations Committee, Mr. Joyce has conducted many industrial relations seminars. He has also provided an employee relations consultation service for management for several years.

HANK KOBRYN

A member of the Iron Workers' Union since 1948, Mr. Kobryn was the President of Local 700 of that union from 1951 to 1953. Thereafter, for 16 years, Mr. Kobryn held the post of Business Agent of the Iron Workers' Local 700 in Windsor. Among the many other offices Mr. Kobryn has held are: Vice-President of the Provincial Building and Construction Trades Council of Ontario, 1958-62; Secretary Treasurer of the same council, 1962; Member of the Labour-Management Provincial Safety Committee; Member of the Labour-Management Arbitration Commission; Member of the Construction Industry Review Panel; and Member of the Advisory Council on Occupational Health and Safety. In December, 1980, Mr. Kobryn was appointed a full-time Board Member representing labour.

BRUCE K. LEE

Mr. Lee has served as a part-time Board Member representing labour for the past three years. He was President of the UAW Amalgamated Local 252, Toronto, for 19 years. During that time, he served on various Union committees and delegations, both in Canada and the United States. In 1964, Mr. Lee was appointed to the UAW organizing staff.

STEPHEN H. LEWIS

Mr. Lewis was appointed as a part-time Board Member representing labour in 1979. Educated at the University of Toronto and the University of British Columbia, Mr. Lewis taught in Africa before entering politics in 1963. He was a Member of the Ontario legislature from 1963 to 1977. During this time, he held the positions of Leader of the New Democratic Party of Ontario and Leader of the Official Opposition in the legislature. Since his retirement from active politics, Mr. Lewis has been engaged in a career as a columnist, broadcaster and lecturer. He has also been active in the trade union movement and is experienced in the arbitration process and other facets of collective bargaining. On several occasions he has been appointed to Disputes Advisory Committees under *The Labour Relations Act* as a representative of labour.

F. WILLIAM MURRAY

Mr. Murray was a part-time Member of the Board representing management from 1965 to February of 1980, when he assumed a full-time position on the Board. From 1948 to 1963, Mr. Murray was employed as the Manager of the Motor Transport Industrial Relations Bureau, which served as the labour relations representative for groups of companies in Ontario and Quebec. In 1963 he formed his own industrial relations consulting firm and was active in industrial relations consulting work for many trucking firms and related industries. Since 1971 Mr. Murray has been a Member of the Public Service Staff Relations Board. He is also a Member of the Board of Trade Industrial Relations Committee and the Personnel Association of Toronto.

PATRICK J. O'KEEFFE

Mr. O'Keeffe has been a labour representative Member of the Board since 1966 and presently he serves in that capacity on a part-time basis. A long time union activist, he participated in the trade union movement in Britain and Australia prior to his arrival in Canada. In Canada, Mr. O'Keeffe was a member of the United Steelworkers of America and the Canadian Union of Public Employees. He has held positions of steward, secretary and president of various local unions. He is a past National Representative of CUPE and presently holds the office of Vice-President of the Ontario Federation of Labour.

ROBERT W. REDFORD

Mr. Redford has been a part-time Member of the Board representing management for the last four years. Having graduated from Queen's University with a degree of B.A. (Economics) in 1963, he joined Canada Packers Inc., where he worked for 16 years in the employment relations function. His final position at Canada Packers was Corporate Manager, Personnel Services. Mr. Redford is currently the Executive Director of the Personnel Association of Toronto and the Personnel Association of Ontario.

JAMES A. RONSON

Mr. Ronson was appointed a full-time Member of the Board representing management in August of 1979. He graduated from the University of Toronto with a B.A.Sc. in 1965 and a

LL.B. in 1968. After his call to the bar, Mr. Ronson practised law in Toronto. During his practice he served on numerous boards of arbitration as employer nominee.

MICHAEL A. ROSS

Mr. Ross was appointed as a part-time Board Member on the labour side in February, 1980. Mr. Ross, who has studied economics and political science at Laurentian University, has been the Business Manager of the Labourers' International Union of North America, Local 493 for the past 12 years. He has held the position of Secretary of the Sudbury and District Building & Construction Trades Council for four years and has been President of the Council for two years. He is presently serving his second four-year term as Vice-President of the Ontario District Council of the Labourers' Union and is in his second year as a Director on the Board of the Sudbury Regional Development Corporation.

WILLIAM F. RUTHERFORD

Mr. Rutherford has been a full-time Member of the Board representing labour for three years. He was the Houdaille Plant Chairman for the UAW for 37 years. He was a Member of the Oshawa District Labour Council between 1944 and 1977 and a Member of the Canadian UAW Council during 1948 to 1971. Mr. Rutherford has served on the Board of Referees of the Unemployment Insurance Commission for 12 years.

HARRY SIMON

Mr. Simon has been a part-time Board Member representing labour since July of 1974. He became actively involved in the labour movement in 1926. From 1943 to 1956 he was the Canadian representative to the American Federation of Labour. From 1958 to 1974, Mr. Simon was the Ontario Regional Director of Organization of the Canadian Labour Congress; he was also a Member of the Labour-Management Arbitration Commission from its inception in 1969 until its abolition in 1979. In addition to these appointments, Mr. Simon has served on various boards and commissions representing the Ontario Federation of Labour and the Canadian Labour Congress.

E. CLIFFORD WENT

Mr. Went was appointed as a part-time Board Member representing management in April of 1978. He is a graduate of the University of Saskatchewan with B.A. and LL.B. degrees. Employed by Dominion Stores Limited from 1936 to 1976, from 1944 to 1976 he functioned in various personnel and industrial relations capacities. In 1959 Mr. Went became Vice-President of Personnel and Industrial Relations and in 1969 he assumed the post of Vice-President of Administration, which included responsibility for personnel and industrial relations. He held this position until his retirement in 1976. Mr. Went is a past Director of the Personnel Association of Toronto, and a past Vice-President of the Retail Council of Canada. During 1972-73 he was the President of the Industrial Accident Prevention Association of Ontario.

JAMES P. WILSON

For a number of years Mr. Wilson was the Director of Operations for a multi-trade contractor in the construction industry. He has been the Labour Relations Consultant to the

Electrical Contractors Association of Ontario for the last 10 years. Mr. Wilson has served as the President of the Electrical Contractors Association of Ontario, Charter Member of the Canadian Electrical Contractors Association, a Director of the Toronto Construction Association, Vice-President of the Ontario Federation of Construction Associations and Director of the Toronto Electrical Club. In January of 1981, Mr. Wilson was appointed as a full-time Board Member representing management.

NORMAN A. WILSON

Mr. Wilson was appointed a part-time Board Member representing labour in 1979. A member of Local 721 of the Iron Workers since 1949, he became its Business Agent in 1955. Later, in 1958, he was appointed General Organizer for the International Union, covering Quebec and the Maritime Provinces. Eventually this assignment was enlarged to include the western provinces and Ontario. In 1968, Mr. Wilson became the Executive Director of Canadian Operations of the Union. Mr. Wilson has been an active participant in a number of Provincial Building Trade Councils. He participated in the formation of, and later became a member of, the Construction Industry Review Panel of Ontario and has acted as Co-Chairman of that Panel.

REGISTRAR AND CHIEF ADMINISTRATIVE OFFICER

DON K. AYNSLEY

Having served in the Canadian Armed Forces between 1954 and 1960, Mr. Aynsley joined the Board in 1961 in a clerical position. In 1969 he became an examiner and in 1974 assumed duties as a Labour Relations Officer. In 1976, by Order-In-Council, Mr. Aynsley was appointed Registrar of the Board.

V HIGHLIGHTS OF BOARD DECISIONS

Union Breached Duty of Fair Representation in Seeking Dismissal of Grievor

A union official gathered a petition addressed to the employer threatening an unlawful strike if the grievor, who was suspected of having leaked certain information to the press, was not dismissed. Other union officials signed the petition. The employer terminated the employment of the grievor. The trade union, at the request of the grievor processed a grievance against the dismissal. The grievance was dismissed by a board of arbitration. The grievor's request to apply for judicial review was denied by the union. The grievor alleged that the union had contravened section 60 of *The Labour Relations Act*. The Board held that although the refusal to apply for judicial review did not constitute failure to represent fairly, the conduct of the union officials in seeking the grievor's dismissal did. The Board held that the officials' conduct could not be justified on the basis of a need "to go along with the crowd." The Board further held that the subsequent taking of the grievance against dismissal to arbitration did not cure the unlawful conduct. (*Toronto East General and Orthopaedic Hospital Inc.*, [1980] OLRB Rep. Apr. 555).

Relocation of Company Tainted by Anti-Union Motive — Extensive Remedies Ordered

The employer had decided to relocate its plant in Hamilton to several other locations. The union filed an unfair labour practice complaint alleging anti-union motive. In addition, the union claimed that the failure of the employer during negotiations to disclose to the union its decision to relocate, was bad faith bargaining and that the displacement of employees was an unlawful lock-out. The Board found that at the time bargaining was carried out, the decision to relocate had not been finalized and that therefore the employer was not obliged to disclose these tentative plans on its own initiative. The complaint as it related to bad faith bargaining failed. The Board held that the facts did not meet the definition of "lock-out" in the Act and consequently that part of the complaint was dismissed as well. However, the Board held that the decision to relocate constituted an unfair labour practice in that the decision was tainted by anti-union motive. The Board's remedial order included directing the employer: to offer employees their former jobs at the new locations and to pay their relocation expenses; that the union be given access to the employees at the new locations for purposes of organization; and that the union be reimbursed for its organization costs. (*Westinghouse Canada Ltd.*, [1980] OLRB Rep. Apr. 577).

Refusal to do Unsafe Work — Extent of the Right Discussed

The complainants refused to do certain work involving the use of an anode furnace which they thought was unsafe. The employer investigated and concluded that the work was safe. They still refused to work and a safety inspector was called. The inspector admitted to the complainants that he had no personal experience in anode furnaces, which formed the subject of the dispute. He further admitted that he was relying on the expertise of the company officials to whom he had spoken. The inspector concluded that the work was safe and ordered as a precaution that two employees, rather than one, be present when the furnace was being used. The complainants continued to refuse to work and consequently the company sent them home without pay and placed disciplinary letters in their records. They complained to the Board that they were disciplined because they exercised the right to refuse unsafe work under

The Employees Health and Safety Act, 1976 (since repealed and replaced by *The Occupational Health and Safety Act, 1978*). The Board had to decide whether there was a proper exercise of the right to refuse work by the employees in question. The employer argued that the complainants did not have "reasonable grounds to believe" that their workplace was unsafe; that they were not entitled to the protection of the Act since they acted as a group, and engaged in a form of an illegal strike; and that the complainants should have testified to establish that each of them believed that the work was unsafe. The Board held that the issue was not whether the work in fact was unsafe, but whether the complainants had reasonable cause to believe that it was unsafe. The Board held that "reasonable cause to believe" should be interpreted objectively, so that the issue is not whether an employee in fact believed, but whether the circumstances were such as to cause a reasonable person with equal training and experience to believe that the work was unsafe. The Board held that even after the inspector's order that the work was safe, an employee may continue to have reasonable cause to believe otherwise and may continue to refuse to work. The Board cautioned though that at that stage there would have to be special circumstances which would create "reasonable cause" such as in this case where the inspector had admitted to the complainants that he was inexperienced and was relying on the expertise of company officials. The Board held that even though the complainants had acted as a group, each of them had reasonable cause to believe that the work was unsafe and were entitled to the protection of the Act. The Board concluded that the employer contravened the Act in imposing discipline on the employees. (*Inco Metals Co.* [1980] OLRB Rep. July 981).

Board Policy on Deferment to Arbitration and Unfair Labour Practice Postings

The trade union complained that the grievor, a union steward, had been dismissed by the employer, because of her holding that union office. The employer argued that since the dismissal was grievable under the collective agreement the Board should defer to arbitration. The Board held that notwithstanding her probationary status, the grievor had statutory rights which had been contravened by the employer. Reviewing the Board policy as to deferment to arbitration, the Board stated that in view of the fact that there is some question about the grievor's right of access to the arbitration process because of her probationary status and in view of the different onus of proof and remedies available before arbitration boards and the Labour Relations Board, there should be no deferment to arbitration. The Board proceeded to find a violation of the Act by the employer and made remedial orders including reinstatement and compensation and the posting of a Board notice. The decision also reviewed the rationale for unfair labour practice postings, and indicated that they should usually form part of every Board remedial order (*Valdi Inc.*, [1980] OLRB Rep. Aug. 1254).

Board Has Jurisdiction Over Employees of "Non-Status" Indian Association

The union applied for certification with respect to employees of a "non-status" Indian Association, which was a private social service organization providing social and economic assistance to persons of native ancestry, who were not recognized as "Indians" under the *Indian Act*. The employer argued that the Board did not have the constitutional jurisdiction to entertain the application because many of the association's members, employees, and clientele were Indians. It was argued that as a result, the association's labour relations are within federal jurisdiction. The Board held that Metis people were not Indians under the *Indian Act* and that even if they were, provincial labour legislation of general application did not intrude on their Indian character, status and identity. Further, the Board held that constitutional jurisdiction over labour relations is determined not by the status of an employer's principals, employees or

customers but by the character, operations or functions of the enterprise. The employer's operations were in no way connected with Indian reserves and lands or the exercise of rights or responsibilities under the *Indian Act*. The Board held that it had jurisdiction and proceeded to grant certification. (*Ontario Metis and Non-Status Indian Association*, [1980] OLRB Rep. Sept. 1304).

Individuals Cannot Apply for Determination of Employee Status

In this case, the Board held that section 95(2) of the Act was only intended to resolve issues between bargaining parties. It was not intended to provide a forum in which employees could question their status when that was not in issue between the employer and their trade union. The "question" referred to in section 95(2) must be one arising between bargaining parties during negotiations or during the term of a collective agreement. (*Central Park Lodges of Canada*, [1980] OLRB Rep. Oct. 1373).

Contracting Out Not Tainted by Anti-Union Motive

The trade union complained of unfair labour practices arising out of the employer's decision to contract out its janitorial work, which resulted in the lay-off of its employees. The Board found that there was no contravention of *The Labour Relations Act* since the decision to contract out was free of anti-union motive and was solely motivated by a desire to increase profitability. The Board further found that the employer had no obligation to disclose at the bargaining table, since at the time no concrete intention or plan to contract out existed. The complaint was dismissed. (*Kennedy Lodge Nursing Home*, [1980] OLRB Rep. Oct. 1454).

The Test of Who is "The Employer"

This case involved a determination by the Board as to which of three entities was the employer for the purposes of a certification application. The Sutton Place complex was a joint venture of a partnership between two corporations. Sutton Place Hotel, Sutton Place, and Dennis Management Co. were all divisions of the partnership. No single corporate or business entity operated the complex, which included three distinct areas, i.e. hotel, apartment, and commercial. The work performed by the employees in question benefitted all three areas, since the mechanical systems they serviced were common to all three areas. The employees believed, on reasonable grounds, that their employer was Sutton Place Hotel. Dennis Management was responsible for their day to day supervision, hiring, firing and discipline and the determination and payment of wages, and benefits. There was a charge-back system whereby Dennis Management charged Sutton Place and Sutton Place Hotel for labour and management services. The Board concluded that Dennis Management was the employer on the basis that it had "fundamental control" over the employees. The Board stated that where several entities share the responsibilities among them none of the criteria in the tests normally used by the Board to ascertain the employer are determinative. In such arrangements, the entity having "fundamental control" must be ascertained in the context of the situation as a whole. (*Sutton Place Hotel*, [1980] OLRB Rep. Oct. 1538).

Union Acted Arbitrarily in Seeking Demotion of Grievor

The trade union forced the employer to demote the complainant by threatening to engage in unlawful strikes if the employer failed to do so. The demoted employee complained to the

Board that the union contravened its duty to represent him fairly. The Board agreed with the complainant, holding that the trade union's treatment of the grievor was arbitrary. (*Toronto Hydro Electric System*, [1980] OLRB Rep. Oct. 1561).

Union's Refusal to Sign Agreement After Last Offer Vote Accepting Employer's Offer — Bad Faith Bargaining

Recent amendments to *The Labour Relations Act* permit an employer to request the Minister of Labour to direct a vote among employees in a bargaining unit to accept or reject the employer's last offer on the matters remaining in dispute at negotiations. A vote under this provision was held, at which, by a narrow margin the employees voted to accept the employer's last offer. Nevertheless, the union refused to sign a collective agreement, claiming that the vote is a mere "opinion poll" and not of any legal effect and that in any event the vote was influenced by the employer's unlawful conduct. The Board held that *prima facie* the result of the vote obliges the trade union to sign a collective agreement. Refusal to do so was held to be a breach of the duty to bargain in good faith. On the facts the Board held that the employer's conduct did not affect the ability of the employees to express their true wishes at the vote. (*Canada Cement Lafarge Limited*, [1980] OLRB Rep. Nov. 1583).

Applications for Certification in the Industrial, Commercial and Institutional Sector of the Construction Industry

In an application for certification of a bargaining unit in the ICI sector, the Board held that for an application to "relate to" the ICI sector within the meaning of section 131a(1) of *The Labour Relations Act*, the application need only refer to a bargaining unit described so as to include that sector within its scope. It is not necessary that the employer actually have employees working in the ICI sector on the date of the application for certification. (*Colonist Homes Ltd.*, [1980] OLRB Rep. Dec. 1792).

Termination Petition not Voluntary

During a lengthy strike, the union had been unable to obtain a collective agreement for the employees, two years having elapsed since certification. An application for termination of bargaining rights was filed, supported by a petition signed by a majority of employees. Although the Board found that the employer had not supported the petition, the evidence disclosed that the majority of signatures on the petition were obtained on the company premises, in the presence of management. The Board stated that, while there is no absolute rule against circulating a petition on company premises, since the signatures were obtained in the presence of management, the Board could not be satisfied that the petition was voluntarily signed by more than 45 per cent of the employees in the bargaining unit. Consequently, the application was dismissed. (*Ontario Hospital Association (Blue Cross)*, [1980] OLRB Rep. Dec. 1759).

Oral Evidence of Payment of Initiation Fee Not Admissible

Three of the membership cards filed by the union did not indicate the payment of an initiation fee of at least one dollar. The union sought to remedy this deficiency by leading oral evidence. The Board reiterated its rule that while oral evidence may be led to cure technical irregularities, it would not allow oral evidence to establish the two substantive conditions of

membership specified in *The Labour Relations Act*, namely, the application for membership and the payment of one dollar. (*PRC Chemical Corporation of Canada Ltd.*, [1980] OLRB Rep. Dec. 1805).

Journalist Required to Reveal Source of Information

The union complained of unfair labour practices by the employer, alleging that the employer had caused an intimidatory news item to be published in the local newspaper. The news item was to the effect that the employer was not planning to renew its contract with the township. The editor of the newspaper was called as a witness under subpoena and on being questioned by the union counsel refused to disclose the source of the news item. He took the position that to reveal sources of information would betray the trust the community had placed on him. He took the position that such trust was very important to his job. The Board ruled that despite the witness's concerns, the evidence was relevant and admissible. The witness was compellable since there is no privilege under the law of Ontario permitting a journalist to refuse to reveal his sources where such information is relevant to the proceedings. The Board held that in refusing to answer the question, the witness was exposing himself to contempt proceedings. On the application of the complainant union, the Board consented to state a case to the courts under *The Statutory Powers Procedure Act, 1971*. (*Ontario Humane Society*, [1980] OLRB Rep. Dec. 1776).

Introduction of Security Measures — A Violation of the Act — Section 7a

In response to the union's organizing campaign, the employer, a hotel, instituted extensive security measures inside and outside its premises. These security measures included a new sign-in procedure for employees, security patrols inside the hotel and the use of the marked security patrol cruisers outside the hotel and in the parking area. In addition, several employees who supported the union were dismissed. The Board found that the majority of the discharges complained of were motivated by anti-union sentiment and therefore were unlawful. As for the security measures, the employer admitted that they were introduced to restrict organizing activity on the employer's premises. The Board held that the right of an owner to take steps for the adequate security and control of his premises is a *prima facie* incident of ownership not to be lightly interfered with. Nevertheless, in view of the fact that the chilling effect of the employer conduct was so readily foreseeable, the Board held that the employer must be taken to have been motivated by anti-union motive, especially in the light of the general anti-union behaviour of the employer already established. The Board reiterated its view that an employee's time outside of his working hours is for the employee to use as he wishes without unreasonable restraint by the employer, even though the employee may be on company property. In the circumstances the Board certified the applicant trade union without directing a representation vote. (*Skyline Hotels Limited*, [1980] OLRB Rep. Dec. 1811).

Ban on Overtime — A Lawful Exercise of the Right to Strike

The trade union, which was in a legal position to strike, voted to impose a ban on voluntary overtime. The employer sent disciplinary letters to employees who refused overtime in accordance with the collective decision. The union filed unfair labour practice complaints against the employer over the disciplinary letters. The Board held that the ban on overtime was aimed at putting pressure on the employer in the way it was conducting negotiations. It was a form of strike activity, which, being timely, was a lawful exercise of rights under the Act. The

Board also held that the employer engaged in an unfair labour practice in disciplining employees for exercising lawful rights. (*Corporation of the City of Brampton (Brampton Transit)*, [1981] OLRB Rep. Jan. 1).

Foremen Entitled to Bargain Collectively

The Board received an application for certification with respect to a tag-end unit composed exclusively of foremen. The employer argued that the foremen were not "employees" within the meaning of the Act and were not entitled to bargain collectively. The Board, having reviewed the duties and responsibilities of the persons in question, held that they did not perform "managerial functions" since they did not exercise effective control and authority so as to materially affect the economic lives of the employees. (*Hydro Electric Commission of the Borough of Etobicoke*, [1981] OLRB Rep. Jan. 38).

Intimidation and Surveillance Unfair Labour Practices — Section 7a

The applicant union was certified without a representation vote following a finding by the Board of several unfair labour practices. The employer had subjected two union supporters to constant surveillance and wrote intimidating letters to several employees who were to testify before the Board. In addition, the employer exercised undue influence at a series of employee meetings designed to discourage union support and to expose those supporting the union. A union supporter had also been discharged. The Board concluded that these violations called for a comprehensive remedial order, including the posting of a notice by the employer promising to refrain from future violations and the payment of damages to the two employees who were subjected to extraordinary harassment and indignity through constant surveillance because of their union activity. (*K-Mart Canada Ltd.*, [1981] OLRB Rep. Jan. 60). The Board, in a subsequent decision, reconsidered and revoked that part of its order directing payment of damages for harassment and indignity (*K-Mart Canada Ltd.*, [1981] OLRB Rep. Feb. 120).

Bargaining Unit may not be Enlarged in Displacement Application

The applicant trade union applied for certification to displace the incumbent union which held bargaining rights with respect to "technical" employees of the hospital. In the process, the applicant sought the expansion of the bargaining unit to include the employer's professional employees who were unorganized at that time. The Board reiterated its general rule that in displacement applications the applicant must take the existing bargaining unit. The Board refused to sweep the professional employees into the unit, especially in view of the fact that the union failed to show any significant degree of support from employees within that group. (*Toronto East General and Orthopaedic Hospital, Inc.*, [1981] OLRB Rep. Feb. 225).

Temporary Replacement of Locked Out Employees Not Unlawful

The parties had made no real progress during bargaining. The employer concluded that the union was deliberately delaying negotiations in order to co-ordinate bargaining with all of the company's plants across Canada. The employer commenced a legal lockout and hired temporary replacements for those employees locked out. As the Lock-out progressed, the employer tabled new demands seeking relief from restrictive clauses contained in the expired collective agreement. The Board concluded that the company's actions were taken in order to force the trade union to bargain and make an agreement and were not intended to avoid an

agreement. A party may change its bargaining stance to suit the circumstances arising out of a strike or lock-out. Since there was no intention to avoid a collective agreement, that was not bad faith bargaining. The Board distinguished between permanent replacement and temporary replacement of locked out employees. Permanent replacement would be illegal since that would be tantamount to discharging employees for engaging in collective bargaining. However, the temporary replacements could be removed when the union agreed to the terms and conditions demanded by the employer. The Board held that the use of temporary replacements during a lock-out, like the use of non-bargaining unit employees or subcontracting of work, in order to continue the employer's operations, was not contrary to the Act. (*Westroc Industries Limited*, [1981] OLRB Rep. Mar. 381).

VI COURT ACTIVITY

Valentine Enterprises Contracting
Ontario Divisional Court, Date of Decision
May 22, 1980; 80 CLLC ¶14,042

The applicant sought judicial review of a Board decision accrediting the respondent employer association, in which the Board found that the applicant was an employer with whom the respondent Local 506 had bargaining rights. The applicant argued that it had received insufficient notice and that the Board's order conferred bargaining rights upon the union for the applicant's employees. The court, in dismissing the application, found that there had been sufficient notice and that the question of bargaining rights is a question of fact protected from review by section 97 of *The Labour Relations Act*.

P. J. Wallbank Manufacturing Co. Ltd.
Ontario Divisional Court, Date of Decision
August 20, 1980; unreported

This was an application for judicial review of a Board decision certifying the UAW with respect to a bargaining unit of employees of the employer. There were several grounds on which the application was based. The court held, on the first ground, that a finding that an employee did not exercise management functions was within the exclusive jurisdiction of the Board. The refusal of leave to the employer to re-open its case was held not to be a denial of natural justice in the circumstances. The court held that in any event, this was a matter of procedure and as such was exclusively within the jurisdiction of the Board. The Board's finding that the employer did not participate in or assist the union was held not to be so patently unreasonable in the light of the evidence as to warrant intervention by the court. The application was dismissed. In this matter the court had earlier dismissed an application for a stay of the Board order pending judicial review.

Windsor Airlines Limousine Services Limited
Ontario Divisional Court, Date of Decision
September 2, 1980; (1981), 30 O.R. (2d) 732; 117 D.L.R. (3d) 400

The applicant sought judicial review of a Board order certifying the respondent trade union with respect to its employees. Two grounds were forwarded in support of the application. First, that the Board was without constitutional jurisdiction since labour relations between the employer and the employees in question were within federal jurisdiction. Second, it was argued that the Board lost jurisdiction when it refused to adjourn proceedings at the request of the employer. The court held that the "ordinary business" of the employer was intra-provincial. Extra-provincial activity was exceptional and minimal. Therefore, it was held that the Board was justified in concluding that the company was within provincial jurisdiction. On the second ground, the court noted that the Board's denial of an adjournment was subject to the condition that if the employer felt, as the hearing proceeded, that his case was in any way prejudiced by the late receipt of particulars, he could make a new application for adjournment at that time. The court held that when the employer walked out of the hearing in the face of such a ruling, there was no loss of jurisdiction or denial of natural justice. The court commented that the Board's decision to press on with the hearing was not arbitrary since it was

done for what appeared to the Board to be the necessity of the situation. The application failed on both grounds. The court had earlier refused to order a stay of the Board order pending judicial review. Leave to appeal the Divisional Court decision to the Court of Appeal was denied.

Westinghouse Canada Inc.

Ontario Divisional Court, Date of Decision

September 19, 1980; 80 CLLC ¶14,062

The employer sought to quash a decision of the Board where it had held that the company had committed an unfair labour practice by deciding to relocate the plant, in part as a result of anti-union motivations. The Board ordered the employer to offer the displaced employees the option of accepting employment at the relocated plant. In addition, the union was given access to employees at the new plant for purposes of organization, and the employer was ordered to reimburse the union for re-organization expenses. The employer argued that the Board's finding that the relocation was not for "cause" was patently unreasonable; that in allowing the union access, the Board interfered with the employees' right to select the union of their choice; and that the Board's decision was tantamount to directing the employer to assist a trade union, which was conduct prohibited by *The Labour Relations Act*. The court held that the Board's conclusion as to presence of anti-union motive was not patently unreasonable. The court stated that in making the remedial orders the Board was simply attempting to put the employees and the trade union as much as possible in the same position as if the relocation had never taken place. In the circumstances the remedial orders were held not to be outside the scope and intent of the Act.

Thames Steel Construction Ltd.

Ontario Divisional Court, Date of Decision

October 21, 1980; unreported

The respondent union was certified by the Labour Relations Board over the opposition of the employer and some objecting employees. The applicant applied for judicial review and that hearing was pending. In the interim, the union proceeded with bargaining and was in a position to call a lawful strike. The employer applied for an interim order under section 4 of *The Judicial Review Act* to stay the Board order, which would make the anticipated strike unlawful.

The court stated that relief under section 4 is an extraordinary remedy which is subject to the discretion of the court. Therefore, in order to obtain the relief requested, the employer must show a *prima facie* case that the Board order may be reviewed on the ground of jurisdictional error as alleged. The court noted that the union had been certified by the Board and the employees were in a lawful position to strike. The court held that these rights of the union and the employees should not be interfered with unless it is established *prima facie* that the Board order is likely to be judicially reviewed. The court held that such a *prima facie* case was not established and accordingly the application was dismissed. The court also noted that the applicant could have applied for a speed hearing of its application for judicial review under section 6(2) of the Act, but chose not to do so. Following the dismissal of the application for a stay, the matter did not proceed to a hearing but was settled.

The Ontario Metis and Non-Status Indian Association

Ontario Divisional Court, Date of Decision

November 24, 1980; (1980), 6 A.C.W.S. (2d) 132

The applicant employer sought to have the Board order certifying the respondent union stayed under section 4 of *The Judicial Review Procedure Act* pending the outcome of its application for judicial review. It had applied for judicial review on the ground that the matter was not within the constitutional jurisdiction of the Board.

The court stated that a stay is granted "to preserve the status quo in situations where to refuse it would have the result of a hollow victory" for the successful applicant. However, the applicant must establish a *prima facie* case that it will be successful. Also, it must establish that a refusal to stay would result in irreparable damage to the applicant and that the granting of a stay will not create a substantial injustice to the union. The court noted that the applicant had failed to apply under section 6(2) of *The Judicial Review Procedure Act* for a speedy hearing of its application for judicial review. Since the applicant did not, in the court's view, satisfy the above conditions, the application was dismissed. The applicant subsequently did not proceed with the application for judicial review.

Hugh Murray (1974) Limited and John Entwistle Limited

Ontario Divisional Court, Date of Decision

December 17, 1980; 81 CLLC ¶14,091

The applicant trade unions sought judicial review of two decisions of the Board in which they were found to have abandoned their bargaining rights. The applicants argued that the only issue the Board should have considered was whether the union was once certified, and should not have considered questions as to how long ago certification occurred or what the applicants' conduct had been since. The applicants submitted that there is no express mention in the Act of abandonment of bargaining rights as a ground for declaring that a union no longer represents the employees in a bargaining unit.

The court dismissed the applications pointing out that the Act does not purport to list exhaustively all matters which the Board may consider in its various decisions. On the other hand the Board with its labour relations expertise, has a duty to take into account all matters it considers to be relevant. The court held that abandonment of bargaining rights once possessed, is a matter relevant to the question of whether at the relevant times the applicants held bargaining rights. Leave to appeal the Divisional Court decision to the Court of Appeal was denied.

Ajax and Pickering General Hospital et al

Ontario High Court of Justice, Date of Decision

January 21, 1981; unreported

The applicant hospitals had applied for a cease and desist order from the Board against CUPE, which allegedly was threatening to call in an unlawful strike in contravention of *The Hospital Labour Disputes Arbitration Act*. While the Board hearing was pending, the union applied to the High Court for an order prohibiting the Board from proceeding with the hearing. The application was based on two grounds. Firstly that the Board was without constitutional jurisdiction to grant cease and desist relief to the hospitals and secondly that

The Hospital Labour Disputes Arbitration Act was *ultra vires* the province because it conflicted with an international treaty entered into by Canada. The court held that the power vested in the Board to issue cease and desist relief does not offend section 96 of *The British North America Act*, because this power is purely incidental to the function of the Board of maintaining labour peace. It was held that these power do not usurp the powers of the Court and therefore are not *ultra vires*. The application for prohibition was dismissed.

The Municipality of Metropolitan Toronto
Ontario Divisional Court, Date of Decision
January 29, 1981; unreported

This was an application for judicial review of a decision of the Board wherein it held that the Municipality was an employer which operates a business in the construction industry within the meaning of the Act. The applicant contended that by giving the words "construction industry" a meaning they cannot reasonably bear, the Board had lost jurisdiction. In a brief decision, it was pointed out that the Divisional Court had considered and rejected the same argument in a previous case, which was not distinguishable from this one. The application was dismissed. Leave to appeal the decision of the Divisional Court to the Court of Appeal was denied.

Ontario Humane Society
Ontario Divisional Court, Date of Decision
January 30, 1981; unreported

In a complaint of unfair labour practices by the employer, the union called as a witness under subpoena, a newspaper editor who had published a news item in his newspaper. The witness refused to disclose his source of information, despite being asked several times by the union counsel to do so. The Board ruled that the question was relevant and not a privileged matter and ordered the witness to answer the question asked. In the face of continued refusal by the witness, at the request of the union, the Board stated a case under *The Statutory Powers Procedure Act, 1971*. The application was granted, the court finding the witness in contempt and sentencing him to a maximum imprisonment of three months or until he answers the question asked, if he continued to refuse. At a Board hearing convened subsequently, the parties settled the matter and the question put to the witness was withdrawn. Based on this settlement the court order was rescinded.

VII CASELOAD

In fiscal year 1980-81, the Board received a total of 2,836 applications and complaints, an increase of 354 cases, or 14 percent above the intake of 2,482 cases in 1979-80. Most of the increase, 294 cases, occurred in filings of complaints of contravention of the Act and referrals of grievances under construction industry collective agreements. (Tables 1 and 2). In addition, 453 cases were carried over from the previous year, making a total caseload of 3,289 in 1980-81. Of this total, 2,711 or 82 percent were disposed of, compared to 78 percent of the lighter caseload of 2,879 in 1979-80. Of the remaining cases, proceedings in 129 were adjourned sine die (without a fixed date for further action) at the request of the parties (The Board regards "sine die" cases as disposed of although they are kept on the docket for one year.) and 449 were pending in various stages of processing at March 31, 1981.

The total number of cases processed during the year produced an average workload of 411 cases for the Board's full-time chairmen and vice-chairmen, and the total dispositions represented an average output of 339 cases.

Labour Relations Officers Activity

In 1980-81, Labour Relations Officers were assigned a total of 1,451 cases to assist the parties involved. (Table 3). The number comprised 44 percent of the Board's total caseload, and included 211 certification applications, 31 cases relating to the status of employees, 678 complaints of contravention of the Act, 491 grievances under construction industry collective agreements, and 40 complaints under *The Occupational Health and Safety Act*. Officer activity was completed in 1,137 cases, with settlements reached by the parties in 72 percent; was adjourned sine die in 68 cases; and was continuing in the remaining 246 cases at the end of the year.

In addition Labour Relations Officers were successful in having the parties waive the hearings in 205 or 76 percent of 269 certification applications assigned, and in settling disputes on the bargaining unit in another 182 cases or 62 percent of 292 cases assigned at the hearing.

Table 4 provides statistics on settlements obtained by Labour Relations Officers in cases disposed of in 1980-81, in which the Officers play the primary role in the processing of the case, as opposed to cases in which new assignments were made during the year. The table shows that the Officers achieved an overall settlement rate of 79 percent of the total 1,196 cases involved. The rate was substantially higher in construction industry grievances, 87 percent, and in complaints under *The Occupational Health and Safety Act*, 89 percent. In complaints of contravention of the Act the settlement rate was 76 percent.

Representation Votes

Returning Officers conducted and counted the results of 276 votes held among employees in one or more bargaining units in 247 cases which were either disposed of during the year or in which a final decision closing the case had not been issued by the Board by March 31, 1981. Of the total votes, 229 involved certification applications, 44 were held in termination of bargaining rights cases, and 3 in successor employer cases. (Table 5). A total of 16,181 employees were eligible to participate in the 276 votes, and 14,276 or 88 percent of them cast

their ballots. Of the 14,276 employees who voted 51 percent cast ballots in favour of the applicant union.

Hearings

The Board held a total of 1,920 hearings and continuation of hearings in 2,090 of the 3,289 cases processed during the fiscal year, an increase of 71 sittings more than the number held in 1979-80. One hundred and thirteen of the hearings were conducted by vice-chairmen sitting alone, compared to 24 hearings in 1979-80.

Processing Time

Table 7 provides statistics on the time required to process the 2,711 cases disposed of by the Board in 1980-81. Information is provided separately for the three major groups of cases handled by the Board: certification applications, complaints of contravention of the Act, and referrals of grievances under construction industry collective agreements.

A median time of 34 calendar days were taken to process the 2,711 cases completed from receipt to disposition. The same processing time was required for complaints of contravention of the Act, but certification applications required 33 days, referrals of construction industry grievances took 21 days, and all other types needed 49 days. Eighty-one percent of all cases were disposed of in 84 days (three months) or less, compared to 85 percent for certification applications, 78 percent for complaints of contravention of the Act, 83 percent for referrals of construction industry grievances, and 70 percent for all other cases. Nine percent of all cases required more than 168 days (six months) to complete compared to 8 percent or slightly more for the three major groups of cases, and 12 percent for all other types.

Certification

Applications for certification of trade unions as bargaining agents of employees constitute the largest group of the cases brought to the Board. The proportion of these applications to the total number of cases received has, however, declined steadily since 1975-76, from 58 percent to 41 percent in 1980-81. (Table 2).

In 1980-81, the Board received 1,152 certification applications, 16 cases more than in 1979-80; (Tables 1 and 2). the applications were filed by 109 trade unions, including 48 employee associations. (Table 8). Eight of the unions, however, accounted for 65 percent of the total certification applications: The Labourers (130 cases), Public Employees (CUPE) (119 cases), Carpenters (81 cases), International Operating Engineers (72 cases), Service Employees International (69 cases), Steelworkers (61 cases), Teamsters (61 cases), and Food and Commercial Workers (54 cases). In contrast, 71 percent of the unions filed fewer than five applications each, with the majority making only one application. These unions together accounted for only 8 percent of the total certification filings.

Table 9 gives the industrial distribution of the intake of certification applications for the year. Non-manufacturing establishments accounted for 78 percent of the intake, concentrated in construction (291 cases), health and welfare services (187 cases), accommodation and food services (78 cases), retail trade (56 cases), and transportation (49 cases). These five industries comprised 74 percent of the total non-manufacturing applications. Of the 256 applications

involving establishments in manufacturing industries, 51 percent were in food and beverage (40 cases), metal fabricating (37 cases), paper and allied products (27 cases), and non-electrical machinery (26 cases).

In addition to the applications received, 191 cases were carried over from the previous year, making a total certification caseload of 1,343. Of this total, 1,178 were disposed of, 11 were adjourned sine die, and the remaining 154 were pending at March 31, 1981. Of the 1,178 dispositions, certification was granted in 823 cases, including 83 in which interim certificates were issued under section 6(1a) of the Act, and 6 that were certified under section 7a; 185 cases were dismissed; proceedings were terminated in 15, and 155 were withdrawn. The certified applications represented 70 percent of the total dispositions, compared to 72 percent in 1979-80.

In 190 applications that were either certified or dismissed final decisions on bargaining units were based on the results of representation votes. (Table 6). Of the 197 votes conducted, 119 involved a single union, and 78 were held between the applicant union and an incumbent bargaining agent. The applicant won in 101 of the votes and lost in 96. A total of 12,317 employees were eligible to participate in the vote, and 10,915 or 89 percent of them cast their ballots. In the 101 votes that were won and resulted in certification 5,797 or 85 percent of the 6,798 employees eligible to vote cast their ballots, and of those who voted, 4,187 or 72 percent favoured the applicant unions. In the 96 votes that were lost and resulted in dismissal 5,118 or 93 percent of the eligible employees participated in the vote, and of the participants 1,788 or 35 percent voted in favour of the applicant unions.

Small bargaining units remained the predominant pattern of union organizing efforts through the certification process. The average size of the units in the 823 applications that were certified in 1980-81 was 30 employees, compared to 33 employees in 1979-80. (Table 10). Units in construction certifications average 6 employees, compared to 5 employees in 1979-80, and those in non-construction certifications averaged 37 employees, compared to 42 employees in 1979-80. Seventy-nine percent of the total certifications, including all except two in construction, involved units of fewer than 40 employees, and 43 percent applied to units of fewer than 10 employees. The total number of employees covered by the 823 certified applications dropped to 24,658 from 24,685 in 1979-80.

Table 11 shows the time taken by the Board to process the 823 applications in which certification was granted. A median time of 31 calendar days were required to complete these cases from receipt to disposition, compared to 26 days in 1979-80. For non-construction certifications the median time was 33 days, compared to 27 days in 1979-80; and for construction certifications the median time was 21 days, compared to 17 days last year. Eighty-eight percent of the 1980-81 certified cases took 84 days (three months) or less to process from receipt to disposition, 81 percent took 56 days (two months) or less, 44 percent took 28 days (one month) or less, 21 percent required 21 days (three weeks) or less, and 50 cases needed longer than 168 days (six months). In 1979-80, a higher proportion of certified cases was completed in each time-period under six months, and fewer cases took longer than six months.

The general increase in the processing time of certified applications in 1980-81 occurred mainly as a result of the Board shifting its hearing day for certification applications from Tuesday to Friday, and lengthening the terminal date by two days without a corresponding adjustment of the scheduling date by which time limits are set each week for new applications. This situation was corrected in February and other procedural changes have been made to

expedite the handling of certification cases. As a result, a substantial reduction in the processing time of certification cases occurred in the latter part of the year.

Termination of Bargaining Rights

The Board received 104 applications during the fiscal year under sections 49, 51, 52, 53 and 112 of the Act, seeking termination of the bargaining rights of trade unions, an increase of 34 cases above the number filed in 1979-80. In addition, 19 cases were carried over from last year. Of the 123 total, bargaining rights were terminated by the Board in 60 cases, 32 cases were dismissed, proceedings were terminated in 4 cases, and 16 cases were withdrawn. Twelve cases were pending at the close of the year. Unions lost the right to represent 1,160 employees in the 60 cases in which termination was granted, but retained that right for 1,765 employees in the 48 cases that were either dismissed or withdrawn.

Of the 92 cases that were either granted or dismissed, dispositions in 40 cases, 43 percent, were based on the results of representation votes, compared to 44 percent of such cases in 1979-80. A total of 1,066 employees were eligible to participate in the 41 votes that were held, of whom 943 or 88 percent, cast their ballots. (Table 6). In the 31 votes held in last year's cases, 80 percent of the 2,032 employees eligible to vote participated.

Declaration of Successor Trade Union

In 1980-81, the Board dealt with 25 applications under section 54 of the Act, concerning the bargaining rights of a successor trade union resulting from a union merger situation, compared to 12 cases in 1979-80. Affirmative declarations were issued by the Board in 24 cases, and the remaining case was pending at March 31, 1981.

Declaration of Successor or Common Employer

The Board dealt with 88 applications for declarations under section 55 of the Act on the bargaining rights of a trade union as a successor employer resulting from a business sale, or for declarations under section 1(4) to treat two companies as one employer. The two types of requests are often made in a single application. One application was also received under section 4 of *The Successor Rights (Crown Transfers) Act*.

Affirmative declarations were issued by the Board in 31 cases, including 3 in which representation votes were held; 14 cases were either settled or withdrawn by the parties; 9 cases were dismissed; and proceedings were terminated in 5 cases. Of the remaining cases, 13 were adjourned sine die, and 16 were pending at the end of the year. In the 3 cases involving representation votes, 371 of the 521 employees who are eligible to vote participated in the vote. (Table 6).

Accreditation of Employer Organization

Six applications were processed under sections 113, 114 and 115 of the Act for accreditation of the employer organizations as bargaining agents of employers in the construction industry. Accreditation was granted in one case to represent 26 construction companies employing 231 construction workers. Proceedings were terminated in two cases, two cases were withdrawn, and one was pending at March 31, 1981.

Declaration and Direction of Unlawful Strike

In 1980-81, the Board dealt with 77 applications seeking declarations or directions under section 82 of the Act against alleged unlawful strikes in non-construction industries. Directions were issued in 10 cases, 5 cases were dismissed, proceedings were terminated in 4 cases, and 28 cases were withdrawn. Of the remaining cases, 29 were adjourned sine die, and one was pending at March 31, 1981.

Seven applications were also processed during the year seeking directions under section 123(1) of the Act against alleged unlawful strikes affecting the construction industry. A direction was issued in one case, one case was dismissed, four were withdrawn, and one was pending at the end of the year.

Declaration and Direction of Unlawful Lockout

Ten applications processed during the year sought declarations or directions by the Board under section 83 of the Act against alleged unlawful lockouts by non-construction employees. A declaration was issued in one case, one case was dismissed, proceedings were terminated in one case, four cases were withdrawn, two were adjourned sine die, and one was pending at year end.

Consent to Prosecute

In 1980-81, the Board received 29 applications under section 90 of the Act, requesting consent to institute prosecution in Provincial Court against trade unions and employers for commission of an offence under the Act. The number of these applications has declined considerably since 1975 with the expansion of the Board's remedial authority under section 79 of the Act. Many applications which were filed under section 90 prior to 1975, particularly those alleging failure to bargain in good faith, are now made under section 79. The Board also received two applications under sections 76 and 90 of *The Colleges Collective Bargaining Act*.

Of the 29 applications processed, which included 7 carried over from the previous year, 23 were disposed of, 5 were adjourned sine die, and one was pending at March 31, 1981. Of the cases disposed of, consent to prosecute was granted by the Board in one case, consent was denied in six cases, proceedings were terminated in two cases, and fourteen cases were withdrawn.

Contravention of the Act

Complaints filed under section 79 of the Act alleging contravention of the Act form the second largest group of cases processed by the Board. The number of these cases has increased substantially since 1975. (Table 2). In these cases the Board emphasizes voluntary settlements by the parties involved, with the assistance of a Labour Relations Officer.

In 1980-81, the Board received 704 section 79 complaints, an increase of 16 percent above the number in 1979-80. In complaints against employers, the principal charges were alleged illegal discharge or discrimination of employees (sections 56 and 58 of the Act), illegal changes in wages and working conditions (section 70), and failure to bargain in good faith (section 14), and were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly (section 60).

In addition to the complaints received, 132 cases were carried over from 1979-80, and one was filed under section 78 of *The Colleges Collective Bargaining Act*. Of the 837 total, 704 were disposed of, 21 were adjourned sine die, and 112 were pending at March 31, 1981. In 532, or 76 percent of the cases disposed of voluntary settlements including withdrawal of the complaint in 63 cases, were secured by Labour Relations Officers, remedial orders were issued by the Board in 62 cases, 97 cases were dismissed by the Board, and proceedings were terminated in the remaining 13.

In the settlements secured by Labour Relations Officers, compensation amounting to more than \$155,000 was awarded to aggrieved employees, as well as directions to reinstate in many cases. In the 62 cases in which violations of the Act were found by the Board, employers and unions were ordered to pay specific compensation to 13 employees totalling \$34,587.81, and full compensation to another 77 employees for all wages and benefits lost within a period of time. Seventy-five of the 90 employees were also ordered reinstated, as well as 12 other employees for whom monetary remedy was not awarded. In addition, employers in 11 cases were ordered to post a Board notice of the employees' rights under the Act. The Board also issued cease and desist directions in three cases.

Construction Industry Grievances

Grievances over alleged violations of provisions of collective agreements in the construction industry may be referred to the Board for resolution under section 112a of the Act. These referrals comprise the third largest group of cases handled by the Board. As with complaints of contravention of the Act, the Board emphasizes voluntary settlements of these cases by the parties, with the assistance of Labour Relations Officers.

In 1980-81, the Board received 517 cases under section 112a, an increase of 61 percent above the number in 1979-80. The principal issues in these grievances were alleged failure by employers to make required contributions to health and welfare, pension, and vacation funds and deduction of union dues, and violation of the subcontracting and hiring arrangements established by the collective agreement.

In addition to the grievances received, 47 cases were carried over from 1979-80. Of the total, 421 were disposed of, 43 were adjourned sine die, and 100 were pending at March 31, 1981. In 367, or 87 percent of the cases disposed of voluntary settlements including withdrawal of the grievance in 46 cases, were secured by Labour Relations Officers, awards were made by the Board in 30 cases, 21 cases were dismissed by the Board, and proceedings were terminated in 3 cases. Specified payments totalling in excess of \$643,000 were recovered for unions and employees in both the cases settled by Labour Relations Officers and those in which Board awards were made.

Miscellaneous Applications and Complaints

Religious Exemption

Fifteen applications were received in 1980-81 under section 39 of the Act, seeking exemption for employees from the union security provisions of collective agreements because of their religious beliefs. Exemption was granted in eleven of the cases, one case was dismissed and three were withdrawn.

Early Termination of Collective Agreement

Twenty-one applications were processed under section 44(3) of the Act, seeking early termination of collective agreements. Consent was granted in eighteen cases, proceedings were terminated in one case, one case was adjourned sine die, and one was pending at March 31, 1981.

Union Financial Statements

Nine complaints were dealt with under section 76 of the Act, alleging failure by trade unions to furnish members with audited financial statements on the union's affairs. Two cases were dismissed, proceedings were terminated in one case, one case was withdrawn and five were pending at March 31, 1981.

Jurisdictional Disputes

Twenty-four complaints were dealt with by the Board under section 81 of the Act during the fiscal year, involving union work jurisdiction. An assignment of the work in dispute was made by the Board in two cases, three cases were dismissed, proceedings were terminated in one case and eight cases were withdrawn. One case was adjourned sine die, and nine were pending at March 31, 1981.

Employee Status

The Board dealt with 66 applications under section 95(2) of the Act, seeking decisions on the status under collective agreements of employees in occupational classifications that were changed or newly established. Six of the cases were filed under section 82 of *The Colleges Collective Bargaining Act*. Twenty-three of the cases including five withdrawals were settled by the parties in discussions with Labour Relations Officers. Determinations were made by the Board in 17 cases, in which 17 of the 38 employees in dispute were found to be employees under the Act, and 21 were found not to be employees. Two cases were held by the Board to be subjects for arbitration and were dismissed, one case was adjourned sine die, and 21 were pending at March 31, 1981.

Referrals by Minister of Labour

In 1980-81, the Board dealt with nine cases referred by the Minister under section 96 of the Act for opinions on questions relating to the Minister's authority to appoint a conciliation officer under section 15 of the Act, or an arbitrator under section 37(4) or 37a. Determinations were made in two cases in which the Board declared the Minister's authority to appoint a conciliation officer, one case was settled by the parties, proceedings were terminated in five cases, and one case was pending at March 31, 1981.

The Board also made a determination in one case referred by the Minister under section 127(4) of the Act for a decision in a dispute over the successor rights of a designated construction union bargaining agency. The agency's rights were upheld.

Trusteeship Reports

Two statements were filed with the Board during the year reporting that local unions had been placed under trusteeship.

The Occupational Health and Safety Act

In 1980-81, the Board received 40 complaints under section 24 of *The Occupational Health and Safety Act*, alleging wrongful discipline or discharge of employees for acting in compliance with the Act. In contrast, 10 of such cases were received in 1979-80. In addition to the cases received in 1980-81, two were carried over from 1979-80.

Of the total processed, 24 including 2 in which the complaint was withdrawn, were settled by the parties in discussions with Labour Relations Officers, 2 were dismissed by the Board and proceedings were terminated in one case. Of the remaining 15 cases, 2 were adjourned sine die, and 13 were pending at March 31, 1981.

The Colleges Collective Bargaining Act

In 1980-81, the Board dealt with two complaints brought under section 78 of *The Colleges Collective Bargaining Act*, alleging contravention of this Act. One case was settled with the assistance of a Labour Relations Officer, and one was dismissed.

Two cases were filed under sections 76 and 90 of the Act, requesting consent to prosecute. Both were dismissed.

Six applications were made under section 82 of the Act for decisions on the status of employees under a collective agreement. A determination was made in one case in which the employee in dispute was found to be included in the bargaining unit.

Statistics on the cases under *The Colleges Collective Bargaining Act* dealt with by the Board are included in Table 1.

VIII BOARD PUBLICATIONS

The Ontario Labour Relations Board publishes the following:

The Ontario Labour Relations Board Report, a monthly publication of selected Board decisions and containing other information and statistics on proceedings before the Board.

A Guide to the Ontario Labour Relations Act, a booklet explaining in laymen's terms the provisions of *The Labour Relations Act* and the Board's practices.

Rules of Procedure, Regulations and Practice Notes (Queen's Printer), a consolidation of the Rules of Procedure and Regulations enacted under *The Labour Relations Act* and containing all of the Board's practice notes.

IX STAFF AND BUDGET

At the end of the fiscal year 1980-81, the Board employed a total of 106 persons. The Board has two types of employees. The Chairman, Alternate-Chairman, Vice-Chairmen and Board Members are appointed by the Lieutenant Governor in Council. The support staff employees are civil service appointees. Of the total workforce, 63 employees were civil service appointees, while the other 43 were appointed by order-in-council.

The total budget of the Ontario Labour Relations Board for the fiscal year was \$2,525,000.00.

X STATISTICAL TABLES

The following statistics are indicative of the activities of the Ontario Labour Relations Board during the fiscal year 1980-81.

- Table 1: Total Applications and Complaints Received, Disposed of and Pending, Fiscal Year 1980-81.
- Table 2: Applications and Complaints Received and Disposed of, Fiscal Years 1976-1977 to 1980-81.
- Table 3: Labour Relations Officer Case Activity, Fiscal Year 1980-81.
- Table 4: Labour Relations Officer Settlements in Cases Disposed of, Fiscal Year 1980-81.
- Table 5: Results of All Representation Votes Conducted, Fiscal Year 1980-81.
- Table 6: Results of Representation Votes in Cases Disposed of, Fiscal Year 1980-81.
- Table 7: Time Required to Process Applications and Complaints Disposed of, Fiscal Year 1980-81.
- Table 8: Union Distribution of Certification Applications Received and Disposed of, Fiscal Year 1980-81.
- Table 9: Industry Distribution of Certification Applications Received and Disposed of, Fiscal Year 1980-81.
- Table 10: Size of Bargaining Units in Certification Applications Granted, Fiscal Year 1980-81.
- Table 11: Time Required to Process Certification Applications Granted, Fiscal Year 1980-81.

Table 1

**Total Applications and Complaints Received, Disposed of and Pending
Fiscal Year 1980-81**

	Case load			Disposed of Fiscal Year 1980-81							
	Total	Pending April 1, 80	Received Fiscal Year 1980-81	Total	Granted*	Dismissed	Termi- nated	With- drawn	Settled	Sine Die	Pending March 31, 81
Total	3,289	453	2,836	2,711	1,094	366	61	353	838	129	449
Certification of Bargaining agents	1,343	191	1,152	1,178	823	185	15	155	—	11	154
Declaration of Termination of Bargaining Rights	123	19	104	111	60	32	3	16	—	—	12
Declaration of Successor Trade Union	25	2	23	24	24	—	—	—	—	—	1
Declaration of Successor Employer or Common Employer Status	88	19	69	59	31	9	5	7	7	13	16
Accreditation	6	4	2	5	1	—	2	2	—	—	1
Declaration of Unlawful Strike	1	—	1	1	—	—	1	—	—	—	—
Declaration of Unlawful Lock-out	7	2	5	6	1	—	1	4	—	—	1
Direction respecting Unlawful Strike	76	3	73	46	10	5	3	28	—	29	1
Direction respecting Unlawful Lock-out	3	—	3	1	—	1	—	—	—	2	—
Consent to Prosecute	29	7	22	23	1	6	2	14	—	5	1
Contravention of Act	837	132	705	704	62	97	13	63	469	21	112
Exemption from Union Security Provision in Collective Agreement	15	—	15	15	11	1	—	3	—	—	—
Early Termination of Collective Agreement	21	1	20	19	18	—	1	—	—	1	1
Trade Union Financial Statement	9	3	6	4	—	2	1	1	—	—	5
Jurisdictional Dispute	24	4	20	14	2	3	1	8	—	1	9
Referral on Employee Status	66	15	51	44	17	2	4	4	18	1	21
Referral from Minister on Appointment of Conciliation Officer or Arbitrator	9	1	8	8	2	—	5	—	1	—	1
Referral of Construction Industry Grievance	564	47	517	421	30	21	3	46	321	43	100
Referral from Minister on Construction Bargaining Agency	1	1	—	1	1	—	—	—	—	—	—
Complaint under Occupational Health and Safety Act	42	2	40	27	—	2	1	2	22	2	13

* Includes cases in which a request was granted or a determination made by the Board.

Table 2

**Applications and Complaints Received and Disposed of
Fiscal Years 1976-77 to 1980-81**

Type of Case	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	1976-77	1977-78	1978-79	1979-80	1980-81	Total	1976-77	1977-78	1978-79	1979-80	1980-81
Total	11,737	2,205	2,035	2,179	2,482	2,836	10,761	1,974	1,757	2,071	2,248	2,711
Certification of bargaining agents	5,283	1,029	947	1,019	1,136	1,152	5,207	1,014	890	1,022	1,103	1,178
Declaration of termination of bargaining rights	451	84	78	115	70	104	445	72	80	110	72	111
Declaration of successor trade union or employer	300	70	51	74	50	55	281	56	55	61	55	54
Declaration of common employer status	113	7	17	22	30	37	96	7	6	26	28	29
Accreditation	10	2	3	—	3	2	13	2	2	1	3	5
Declaration of unlawful strike or lock-out	63	18	15	9	15	6	50	8	12	12	11	7
Direction respecting unlawful strike or lock-out	401	90	73	84	78	76	273	61	52	62	51	47
Consent to prosecute	271	77	67	57	48	22	233	63	45	52	50	23
Contravention of Act	2,632	460	406	454	607	705	2,372	402	342	402	522	704
Referral of construction industry grievance	1,613	273	264	238	321	517	1,259	210	198	203	227	421
Miscellaneous	600	95	114	107	124	160	532	79	75	120	126	132

Table 3
Labour Relations Officer Case Activity
Fiscal Year 1980-81

Type of Case	Total Cases Assigned	Number of Cases in Which Activity		
		Completed	Pending	Sine Die
Total	1,451	1,137	246	68
Certification				
Interim certificate	77	47	20	10
Pre-hearing application	94	77	17	—
Other application	40	35	5	—
Contravention of Act	678	575	85	18
Construction industry grievance	491	359	95	37
Employee status	31	20	11	—
Occupational Health and Safety Act	40	24	13	3

Table 4**Labour Relations Officer Settlements in Cases Disposed of***
Fiscal Year 1980-81

Type of Case	Total Disposed of	Officer Settlements	
		Number	Percent of Dispositions
Total	1,196	945	79.0
Contravention of Act	704	532	75.6
Construction industry grievance	421	367	87.2
Employee status	44	22	50.0
Occupational Health and Safety Act	27	24	88.9

* Includes only cases in which labour relations officers play the leading role in the processing of the case. The figures refer to cases disposed of during the year and should not be confused with data for the same types of cases in Table 3. Table 3 refers to new assignments of cases made to labour relations officers during the year which may or may not have been disposed of by the end of the year.

Table 5**Results of Representation Votes Conducted***
Fiscal Year 1980-81

Type of Case	Number of Votes	Eligible Employees	Votes Cast	Votes Cast In Favour of Unions
Total	276	16,181	14,276	7,291
Certification	229	14,473	12,851	6,816
Pre-hearing cases				
One union	48	4,012	3,430	1,561
Two unions	54	4,509	4,094	2,643
Three unions	1	234	210	175
Construction cases				
One union	1	5	4	—
Two unions	9	158	134	49
Two unions, with "no union" choice	1	2	2	2
Regular cases				
One union	84	3,306	2,946	1,467
Two unions	31	2,247	2,031	919
Termination of Bargaining Rights	44	1,187	1,054	203
Successor Employer	3	521	371	272

* Refers to all representation votes conducted and the results counted during the fiscal year, regardless of whether or not the case was disposed of during the year.

Table 6**Results of Representation Votes In Cases Disposed of***
Fiscal Year 1980-81

Type of Case	Number of Votes			Eligible Voters			All Votes Cast			Votes Cast in Favour of Unions		
	Total	Won	Lost	Total	In Votes		Total	In Votes		Total	In Votes	
					Won	Lost		Won	Lost		Won	Lost
Total	241	105	136	13,904	7,340	6,564	12,229	6,186	6,043	6,392	4,468	1,924
Certification	197	101	96	12,317	6,798	5,519	10,915	5,797	5,118	5,975	4,187	1,788
Pre-hearing cases												
One union	39	18	21	3,390	1,528	1,862	2,881	1,107	1,774	1,338	698	640
Two unions	58	34	24	4,872	2,819	2,053	4,439	2,579	1,860	2,811	2,117	694
Construction cases												
One union	1	—	1	5	—	5	4	—	4	—	—	—
Two unions	9	3	6	142	15	127	122	15	107	39	11	28
Regular cases												
One union	79	37	42	3,424	1,983	1,441	3,045	1,701	1,344	1,504	1,088	416
Two unions	11	9	2	484	453	31	424	395	29	283	273	10
Termination of Bargaining Rights	41	1	40	1,066	21	1,045	943	18	925	145	9	136
Successor Employer	3	3	—	521	521	—	371	371	—	272	272	—

* Refers to final representation votes conducted in cases disposed of during the fiscal year. This table should not be confused with Table 5 which refers to all representation votes conducted during the year regardless of whether or not the case was disposed of during the year.

Table 7

**Time Required to Process Applications and Complaints Disposed of, by Major Type of Case
Fiscal Year 1980-81**

Time Taken (Calendar Days)	All Cases		Certification Cases		Section 79 Cases		Section 112a Cases		All Other Cases	
	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent
Total	2,711	100.0	1,178	100.0	704	100.0	421	100.0	408	100.0
Under 8 days	108	4.0	18	1.5	34	4.8	19	4.5	37	9.1
8-14 days	296	14.9	93	9.4	55	12.6	131	35.6	17	13.3
15-21 days	353	27.9	171	23.9	86	24.8	73	52.9	23	19.0
22-28 days	387	42.2	217	42.3	103	39.4	32	60.5	35	27.6
29-35 days	328	54.3	174	57.1	98	53.3	15	64.1	41	37.7
36-42 days	200	61.7	95	65.2	65	62.5	18	68.4	22	43.1
43-49 days	163	67.7	76	71.7	30	66.8	20	73.1	37	52.2
50-56 days	103	71.5	55	76.4	24	70.2	12	75.9	12	55.1
57-63 days	75	74.2	25	78.5	21	73.2	14	79.2	15	58.5
64-70 days	63	76.5	35	81.5	10	74.6	4	80.2	14	61.9
71-77 days	50	78.3	19	83.1	10	76.0	6	81.6	15	65.6
78-84 days	60	80.5	25	85.2	12	77.8	5	82.8	18	70.0
85-91 days	29	81.6	4	85.5	12	79.5	4	83.8	9	72.2
92-98 days	37	83.0	14	86.7	12	81.2	3	84.5	8	74.2
99-105 days	34	84.2	9	87.5	10	82.6	6	85.9	9	76.4
106-126 days	80	87.2	24	89.5	18	85.2	15	89.5	23	82.1
127-147 days	57	89.3	13	90.6	23	88.5	5	90.7	16	86.0
148-168 days	53	91.3	17	92.0	22	91.6	5	91.9	9	88.2
Over 168 days	235	100.0	94	100.0	59	100.0	34	100.0	48	100.0

Table 8**Union Distribution of Certification Applications Received and Disposed of
Fiscal Year 1980-81**

Union	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed	Withdrawn
All Unions	1,152	1,178	823	200	155
CLC Affiliates	954	985	688	156	141
Auto Workers	19	23	19	3	1
Bakery Workers	3	4	3	—	1
Boilermakers	3	2	1	—	1
Brewery Workers	23	24	14	3	7
Bricklayers	2	2	—	2	—
CLC Directly Chartered Unions	10	9	4	2	3
Canadian Paper Workers	20	20	10	4	6
Carpenters	81	80	54	8	18
Cement Workers	20	6	3	2	1
Clothing Workers	11	10	9	1	—
Electrical Workers (IBEW)	3	2	1	—	1
Electrical Workers (IUE)	23	24	20	2	2
Electrical Workers (UE)	7	9	7	2	—
Energy and Chemical Workers	10	10	5	2	3
Food Workers	54	60	43	13	4
Garment Workers (United)	1	2	1	1	—
Garment Workers, Ladies	2	2	2	—	—
Glass and Ceramic Workers	1	1	1	—	—
Graphic Arts Union	11	13	11	2	—
Hotel Employees	29	27	16	4	7
Labourers	130	142	90	23	29
Laundry Workers	1	2	1	1	—
Leather and Plastic Workers	1	1	1	—	—
Machinists	10	10	8	1	1
Merchant Service Guild	1	1	—	—	1
Molders	1	2	1	1	—
Newspaper Guild	3	3	2	1	—
Novelty Workers	2	2	1	—	1
Office and Professional Employees	12	10	10	—	—
Operating Engineers, Inter- national	72	73	50	12	11
Painters	16	16	13	2	1
Plasterers	3	4	1	2	1
Plumbers	9	11	7	1	3
Printing and Graphic Union	—	2	—	2	—
Public Employees (CUPE)	119	120	88	17	15
Railway Clerks	6	6	2	2	2

Table 8 (cont.)

**Union Distribution of Certification Applications Received and Disposed of
Fiscal Year 1980-81**

Union	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed	Withdrawn
Public Service Employees (Ont.)	35	42	33	4	5
Railway Transport and General Workers	8	11	9	1	1
Retail Wholesale Employees	32	28	24	4	—
Rubber Workers	2	3	1	2	—
Seafarers	1	1	1	—	—
Service Employees	69	78	58	15	5
Sheet Metal Workers	4	2	1	1	—
Steelworkers	61	65	51	7	7
Structural Iron Workers	14	12	6	3	3
Theatrical Stage Employees	1	—	—	—	—
Transit Union	1	1	—	1	—
Typographical Union	4	5	5	—	—
United Paperworkers	1	1	—	1	—
Woodworkers	2	1	—	1	—
Non-CLC Affiliates	198	193	135	44	14
Allied Health Professionals	3	2	—	2	—
Canadian Industrial Employees	1	—	—	—	—
Canadian Restaurant Employees	9	10	9	1	—
Christian Labour Association	27	29	21	7	1
Food and Associated Service Workers	1	1	1	—	—
Graduate Assistants Association	—	2	1	—	1
National Council of Canadian Labour	2	1	1	—	—
Ontario Nurses' Association	28	25	22	3	—
Operating Engineers, Canadian	15	15	10	4	1
Plant Guard Workers	1	1	1	—	—
Professional Institute	1	—	—	—	—
Teamsters	61	62	45	9	8
Textile and Chemical Union	1	1	1	—	—
Independent Local Unions	48	44	23	18	3

Table 9

**Industry Distribution of Certification Applications Received and Disposed of
Fiscal Year 1980-81**

Industry	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed	Withdrawn
All Industries	1,152	1,178	823	200	155
Manufacturing	256	264	175	55	34
Food, beverages	40	40	25	9	6
Tobacco products	—	—	—	—	—
Rubber, plastic products	6	6	2	3	1
Leather industries	5	3	2	1	—
Textile mill products	8	6	5	1	—
Knitting mills	3	3	3	—	—
Clothing industries	7	8	5	2	1
Wood products	2	4	3	1	—
Furniture, fixtures	6	3	1	—	2
Paper, allied products	27	29	13	9	7
Printing, publishing	16	18	16	2	—
Primary metal industries	6	8	7	1	—
Metal fabricating industries	37	39	23	8	8
Machinery, except electrical	26	27	18	6	3
Transportation equipment	14	12	10	2	—
Electrical products	16	18	14	3	1
Non-metallic mineral products	17	17	10	3	4
Petroleum, coal products	—	—	—	—	—
Chemical, chemical products	12	14	10	3	1
Miscellaneous manufacturing	8	9	8	1	—
Non-Manufacturing	896	914	648	145	121
Agriculture	1	3	—	2	1
Forestry	—	—	—	—	—
Mining, quarrying	7	8	6	—	2
Construction	291	291	187	50	54
Transportation	49	57	36	13	8
Storage	7	8	7	—	1
Communications	—	—	—	—	—
Electric, gas, water	13	14	10	3	1
Wholesale trade	38	36	28	4	4
Retail trade	56	60	52	5	3
Finance, insurance, real estate	27	20	17	2	1
Education, related services	31	35	25	4	6
Health, welfare services	187	193	150	30	13
Religious organizations	1	1	1	—	—
Recreational services	12	13	10	2	1
Business services	18	19	12	5	2
Personal services	6	6	4	2	—
Accommodation, food services	78	76	53	13	10
Miscellaneous service	36	38	24	5	9
Local government	38	36	26	5	5

Table 10
Size of Bargaining Units in Certification Applications Granted
Fiscal Year 1980-81

Size of Bargaining Unit (Number of Employees)	Total		Construction		Non-Construction	
	Number of Appli- cations	Number of Em- ployees	Number of Appli- cations	Number of Em- ployees	Number of Appli- cations	Number of Em- ployees
Total, all sizes	823	24,658	187	1,062	636	23,596
2 - 9 employees	357	1,685	163	633	194	1,052
10 - 91 employees	156	2,165	16	202	140	1,963
20 - 39 employees	139	4,016	6	138	133	3,878
40 - 99 employees	123	7,569	2	89	121	7,480
100 - 199 employees	35	4,795	—	—	35	4,795
200 - 499 employees	10	2,613	—	—	10	2,613
500 employees or more	3	1,815	—	—	3	1,815

Table 11
Time Required to Process Certification Applications Granted*
Fiscal Year 1980-81

Calendar Days	Total Certified		Non-Construction		Construction	
	Number	Cumulative Percent	Number	Cumulative Percent	Number	Cumulative Percent
Total	823	—	636	—	187	—
Under 8 days	—	—	—	—	—	—
8-14 days	59	7.2	4	0.6	55	29.4
15-21 days	115	21.2	76	12.5	39	50.3
22-28 days	185	43.7	171	39.4	14	57.8
29-35 days	154	62.4	143	61.9	11	63.7
36-42 days	68	70.7	61	71.5	7	67.4
43-49 days	51	76.9	43	78.3	8	71.7
50-56 days	34	81.0	31	83.2	3	73.3
57-63 days	15	82.8	11	84.9	4	75.4
64-70 days	17	84.9	14	87.1	3	77.0
71-77 days	11	86.2	9	88.5	2	78.1
78-84 days	15	88.0	11	90.2	4	80.2
85-91 days	—	88.0	—	90.2	—	80.2
92-98 days	10	89.2	8	91.6	2	81.3
99-105 days	6	89.9	5	92.4	1	81.8
106-126 days	17	92.0	13	94.4	4	83.9
127-147 days	7	92.9	5	95.2	2	85.0
148-168 days	9	94.0	4	95.8	5	87.7
169 days and over	50	100.0	27	100.0	23	100.0

* Refers only to applications in which certification was granted. This table should not be confused with Table 7 which refers to all certification applications disposed of during the year regardless of the method of disposition.

APPENDIX

Case Control Management of The Ontario Labour Relations Board

1. Introduction

We thought it would be useful to discuss an important aspect of labour board administration — case management. All boards throughout Canada are experiencing substantial increases in caseload. As creatures of statute, such agencies are confronted with the demands of the parties for quick justice and a growing reluctance by government to spend more public funds. Effective case management is therefore necessary to use existing resources as efficiently as possible and to provide reliable information to make a convincing case for additional resources where required. What follows is a very brief outline of the key elements in the O.L.R.B.'s case management system as it has evolved to date. However, we should also add that there are independent labour relations reasons for effective case management. Delay in processing labour relations matters can cause its own disruption of labour relations and reflect negatively on the community's perceptions of the Labour Relations Board. By providing an effective case management system that ensures maximum productivity and service to the community, the Board will be seen by management and labour as encouraging the development of labour harmony.

2. Trends in Caseload

The following table indicates the Board's caseload over the past three years:

APPLICATIONS AND COMPLAINTS RECEIVED BY THE
ONTARIO LABOUR RELATIONS BOARD
FISCAL YEARS 1978-79 to 1980-81

<u>Type of Case</u>	<u>Number Received, Fiscal Year</u>			
	<u>Total</u>	<u>1978-79</u>	<u>1979-80</u>	<u>1980-81</u>
Certifications	3307	1019	1136	1152
Unfair Labour Practice Complaints	1766	454	607	705
Grievances in the Construction Industry	1076	238	321	517
Other	1348	468	418	462
TOTAL	7497	2179	2482	2836

It is interesting to note that while certification applications continued to increase by some 133 cases in the past three years, this increase does not compare to either unfair labour practice complaints (251 cases) or construction industry grievances (279 cases).

3. Objectives

To develop an effective management system, there is a need to define the objectives of the organization.

The Ontario Labour Relations Board has three basic goals.

- (a) The primary goal of the Board is to adjudicate all cases in a fair and creative manner and to provide effective remedies where appropriate.
- (b) The second goal of the Board is to settle or mediate as many cases as is reasonably possible.
- (c) Since justice delayed is justice denied, the final goal is to dispose of all cases as quickly and efficiently as possible.

4. Standards

The broad objectives outlined above must be refined into specific standards against which to measure performance.

The following is an outline of the procedures the Board has developed for case handling and the control system used to measure the effectiveness of these procedures. The control system focuses on three categories of cases: certifications; unfair labour practice complaints; and grievance arbitrations in the construction industry. These three categories represent the bulk of the Board's activity.

After studying a representative period and assessing how long an average case should take at each stage, control times were established.

In the three major categories of cases the control standards presently employed are as follows:

(i) Certification Cases

- (a) date of filing to date of processing — 1 day
- (b) date of processing to terminal date — 8 days
- (c) date of application to date of hearing — 21 to 25 days
- (d) date of hearing to date of decisions:
 - where only one day of hearing — 5 days
 - where more than one hearing day — 2 weeks

(ii) Unfair Labour Practice Complaints

- (a) and (b) — as in certification cases, above
- (c) date of application to date of hearing — 21 days

(d) date of hearing to date of decision:

- where only one day of hearing — 7 days
- where more than one day of hearing — 3 weeks

(iii) Grievance Arbitrations in Construction Industry

(a) and (b) — as in certification cases, above

(c) date of application to date of hearing — 14 days

(d) date of hearing to date of decision:

- where only one day of hearing — 7 days
- where more than one day of hearing — 3 weeks

Each case is monitored from the date the application is received at the Board to the date of its disposition against these control times. The monitoring tracks the time lapse between each stage of processing (i.e. date of application for certification to completion of administrative processing; date of administrative processing to terminal date; terminal date to hearing date; hearing date to decision and disposition) and reports all cases that have exceeded the control times.

5. Management Information System

Two case monitoring clerks compile all the information in weekly and monthly reports. The reports generated by the monitors constitute the basis of the Board's case management information system. All cases which have exceeded the control times are reported and aggregate case disposition results on a monthly and year-to-date basis are tabulated and compared against the results of the previous year.

For example, a weekly report is prepared indicating all cases that have exceeded control dates at any stage. Reasons for the delays are then supplied by:

- (i) the Registrar — in cases of administrative processing;
- (ii) the Senior Labour Relations Officer — in cases where Labour Relations Officers are causing delays, and
- (iii) Vice-Chairmen — where decisions are delayed.

This report is forwarded to the Chairman each week for appropriate action.

A weekly report indicating the number of incoming and disposed of cases by case type (e.g. certifications, terminations, votes, illegal strikes, etc.) and a breakdown by number of those disposed of cases that have exceeded control times is also forwarded to the Chairman. This report also indicates what percentage of the cases disposed of to date have met the control

times for comparison with the previous year's results and the Board's current performance commitment.

A detailed monthly report is prepared outlining the caseload and settlement activity effectiveness of all the field staff.

Upon receipt of these reports, the reasons for delay or decrease in overall Board performance are evaluated to determine if these reasons involve factors beyond the Board's control, i.e. increasing volume or complexity. An important example of a delay factor currently outside the Board's control and of concern to it is the adjournment of cases by agreement of the parties. The Ontario Labour Relations Board has a policy where, if all parties to a matter are in agreement, they may request a hearing adjournment either to a fixed date or to a date in the future to be set by the Registrar. In some cases, adjournments on agreement can exceed 3 months and severely impact case processing performance statistics. The Board is currently studying a statistical analysis that will "break out" this type of delay and report it separately.

Management information is of little value if it is not analyzed and acted upon. To this end, the Chairman works with an Administrative Committee which meets monthly to discuss all aspects of Board work including: areas where case processing improvement is needed; the settlement activity of Labour Relations Officers, and the general disposition rate of all cases.

6. Other Uses for the Information System

Published results developed through an effective management information system can be used in many ways:

(a) M.B.R. and Related Budget and Resource Allocation Activity

(i) M.B.R.

Statistics developed as a result of the case monitoring system can be used to set the Board's standards for the "Management by Results" reports that are prepared annually by each branch and ministry for the provincial government's Management Board.

The government's aim is to have an effective results-oriented management system that can be applied across the management spectrum within each ministry.

The productivity measures that the Board includes in its MBR report are divided into 4 headings and the Board's objectives for 1981-82 are:

1. Percent of cases disposed of within:

Certifications	— 4 weeks	63.0%
Unfair Labour Practice Complaints	— 6 weeks	60.0%

Construction Industry Grievances	— 4 weeks	63.0%
2. Percent of L.R.O. settlements		80.0%
3. Number of decisions per Vice-Chairman		149
4. Number of settlements per Labour Relations Officer		81

(ii) Budget & Resource Allocation

In order to realistically assess the coming year's financial needs, there must be some ongoing process to measure caseload and case disposition increases or decreases. A successful case monitoring and management system is the primary method for justifying needed resources in both manpower and physical plant.

An example of the process in action would be the assessment required to request an additional Vice-Chairman. This would involve documenting the year-by-year increase in caseload, any significant increases in hearing hours; the number of decisions per vice-chairman per month and the month-to-month backlog of decisions to be written. Without substantial data, as illustrated above, to back up the request, and particularly in a period of fiscal restraint, it is unlikely that any consideration would be given such a request.

In addition, since monitoring reports are kept on a monthly basis it is possible to project well in advance financial problem areas and adjust budget expenditures to meet new needs.

(b) Program Development

As a management system is developed and case monitoring reports analyzed, those areas that need program assistance or enhancement are more easily identified. This assistance may be in the form of new or altered processing methods, staff development or staff reorganizing. In the last two years as a result of Administrative Committee action the O.L.R.B. has reorganized its clerical staff, reorganized its field staff, instituted a waiver of hearing program, substantially modified its settlement approach to certification day, and substantially increased staff development activity.

(c) Employee Motivation

Administratively, a well-managed information system can help each area in the Board improve its internal procedures within measurable guidelines and increase its overall awareness of the

importance of processing each case quickly and correctly. It can increase staff sensitivity to the importance of the Board and improve individual staff morale.

A good management information system also allows senior management to evaluate both the quantitative and qualitative output of not only the clerical staff but also the adjudicative and field staff and in this way have a basis for improving production as well as performance.

7. Other Data

To help analyze the resource implications of Board adjudicative and field programs the Board is compiling the following statistics:

The Workload of Vice-Chairmen and Labour Relations Officers

(a) In terms of volume, by measuring:

Number of assignments by case type.

Number of decisions/settlements by case type.

Number of cases pending by case type.

Number of pages per decision/examination.

Number of hearing days/examination days.

(b) In terms of time lapse, by measuring:

— time from last hearing to decision

— time between examination meetings

— time from date of officer appointment to report date.

These statistics could be compiled on both a monthly and a year-to-date basis.

Conclusions

Because time delay and backlog in case disposition directly affects the Board's mandate to maintain and encourage harmonious labour relations, every effort must be made to develop and perfect a case management information system that will provide up-to-date information and continuous evaluation to be used as a basis for the improvement of the Board's practices and procedures.

By developing clear objectives and applying reasonable methods of controlling and measuring performance, the Board will be better able to forecast productivity results and reduce time delays and backlog.

Effective management control will, by its very nature, make the Board a more efficient and expeditious organization.

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