ONTARIO
LABOUR RELATIONS BOARD

ANNUAL REPORT
1987-88

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ONTARIO LABOUR RELATIONS BOARD

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Labour Relations
Board

Commission
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The Honourable Gregory Sorbara
Minister of Labour
400 University Avenue
14th Floor
Toronto, Ontario
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Dear Minister:

It is my pleasure to provide to you the eighth Annual Report of the Ontario Labour Relations Board for the period commencing April 1, 1987 to March 31, 1988.

Sincerely,

Rosalie S. Abella
Chair

CHAIR'S MESSAGE

It is inevitable in reviewing a year's work to look back in combined wonder, relief and pride—wonder that what seemed insurmountable was in fact overcome, relief at the same thing, and pride in the human energies that produced the results that generated our wonder and relief. The Ontario Labour Relations Board has had a remarkable year and looking back over it from its current strength, we marvel. We have a new Registrar, Theresa Inniss, a new Manager of Administration, Christine Karcza, additional Vice-Chairs and Board members, computerization in various stages of implementation, more hearing rooms and more expeditious processing, settlement and adjudicative procedures. It is in fact a dramatic picture of a tenacious, collegial commitment to the highest possible quality of public service in the face of difficulties that often felt relentless. The size of the Board and its caseload, the expectations of the labour relations community, the microscope of public scrutiny—all these the Board accepts as challenges it must and can meet. Accepting the reality that every decision produces at least one unsuccessful and therefore disappointed party, we have concentrated on ensuring that the process leading to the result is as expeditious and fair as possible. The Board has sought to provide integrity in both—the process and the result—and has done so remarkably well given the context in which it exists.

It is not just that this is what the Board has increasingly accomplished and entrenched during this year, it is that it is peopled by public servants committed, through a sense of pride in the institution and its goals, to maintaining levels of excellence.

To them—the adjudicators for their incredible skill, knowledge and insight; Jack MacDonald and the Labour Relations Officers for their genius at settlement; Virginia Robeson for her efforts during the transition and the extraordinary Theresa Inniss for turning the transition into the future; the indefatigable Christine Karcza for redefining sensitive management; the solicitors, Colleen Edwards, Kathleen MacDonald and Marilyn Nairn for their legal support; Clare Lyons for the library's accessibility; and the entire support staff for monumental donations of time, confidence, and cooperation.

Although this message appears slightly more elegiac than a standard annual report displays, it is done deliberately. This has not been a standard year. Nor have the efforts of the Ontario Labour Relations Board's staff, throughout the organizational layers, been anything like standard. Each branch of the Board, in its own way, made a singular and masterful contribution to the whole, succeeding ultimately in creating an energetic and positive trajectory that leaves the Board rightfully enthusiastic about its ability to serve the community for whom it functions. And in these final words, it is the community whose cooperation and assistance we want gratefully to acknowledge. As the community dealt with the Board, walking on what must at times have appeared to be a "fault line", it combined patience and support with constructive observations leaving the Board at all times persuaded that all was not only possible, but worth the effort. To the legal community, its clients, the organizations, associations and parties who endured with graciousness the frustrations of this transition year, the Board extends its thanks. A commitment never to quake again is impossible to make; a commitment never knowingly to compromise the Board's ability to deliver the best possible services of which an independent, quasi-judicial tribunal is capable, can be treated as a guarantee.

I INTRODUCTION

This is the eighth issue of the Ontario Labour Relations Board's Annual Report, which commenced publication in the fiscal year 1980-81. This issue covers the fiscal year April 1, 1987 to March 31, 1988.

The report contains up-to-date information on the organizational structure and administrative developments of interest to the public and notes changes in personnel of the Board. As in previous years, this issue provides a statistical summary and analysis of the work-load carried by the Board during the fiscal year under review. Detailed statistical tables are provided on several aspects of the Board's functions.

This report contains a section highlighting some of the significant decisions of the Board issued during the year. A brief description of every Board matter that was subject to review by the courts during the year is provided. Since many of these court decisions are unreported, the summaries in the Board's Annual Report have been helpful to the practising bar. The report continues to provide a legislative history of the *Labour Relations Act* and notes any amendments to the Act that were passed during the fiscal year.

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 a public hearing 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 or sole arbitrators and, when 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 1943-44*, (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 war time 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 amended so as to encompass only those industries within 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 Board* 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 lock-out 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 of 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 of 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 be enforceable as orders of the Court.

A major increase in the Board's remedial powers under the *Labour Relations Act* occurred 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

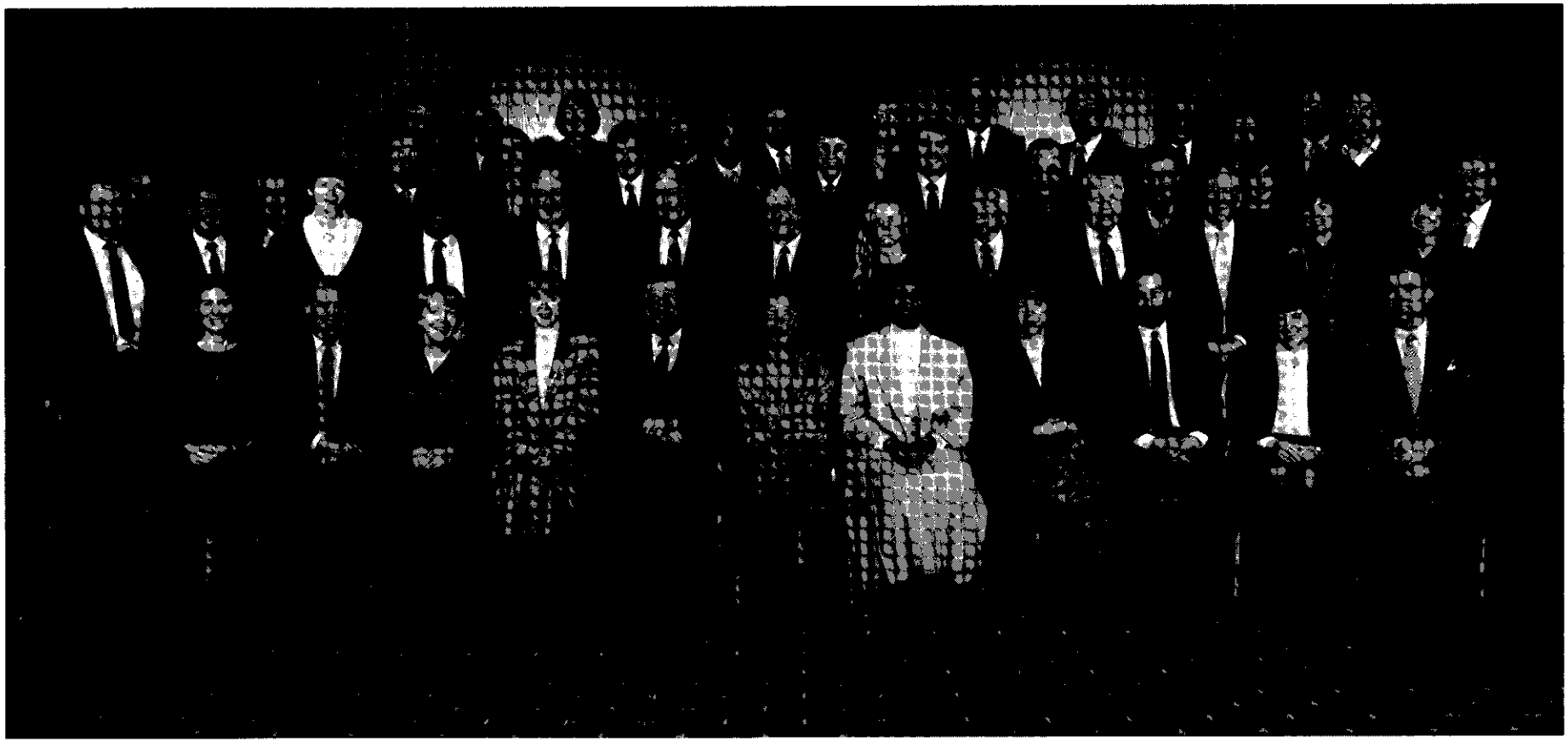
any unlawful strike or lock-out. It was in 1975 as well, that the Board's jurisdiction was enlarged to enable it to determine grievances in the construction industry referred to it by one of the parties to a collective agreement.

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 a 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 a bargaining unit on their employer's final offer at the request of their employer. In June of 1983, the *Labour Relations Amendment Act, 1983*, S.O. 1983, c. 42, became law. It introduced into the Act section 71a, which prohibits strike related misconduct and the engaging of or acting as, a professional strike-breaker. To date the Board has not been called upon to interpret or apply section 71a.

In June of 1984, the *Labour Relations Act, 1984*, S.O. 1984, c. 34 was enacted. This Act dealt with several areas. It gave the Board explicit jurisdiction to deal with illegal picketing or threats of illegal picketing and permits a party affected by illegal picketing to seek relief through the expedited procedures in sections 92 and 135, rather than the more cumbersome process under section 89. The Act also permitted the Board to respond in an expedited fashion to illegal agreements or arrangements which affect the industrial, commercial and institutional sector of the construction industry. It further established an appropriate voting constituency for strike, lock-out and ratification votes in that sector and provided a procedure for complaints relating to voter eligibility to be filed with the Minister of Labour. The new amendment also eliminated the 14 day waiting period before an arbitration award which is not complied with may be filed in court for purposes of enforcement.

In May of 1986, the *Labour Relations Amendment Act, 1986*, S.O. 1986, c. 17 was passed to provide for first contract arbitration. Where negotiations have been unsuccessful, either party can apply to the Board to direct the settlement of a first collective agreement by arbitration. Within strict time limits the Board must determine whether the process of collective bargaining has been unsuccessful due to a number of enumerated grounds. Where a direction has been given, the parties have the option of having the Board arbitrate the settlement.

THE FULL BOARD AND SENIOR STAFF

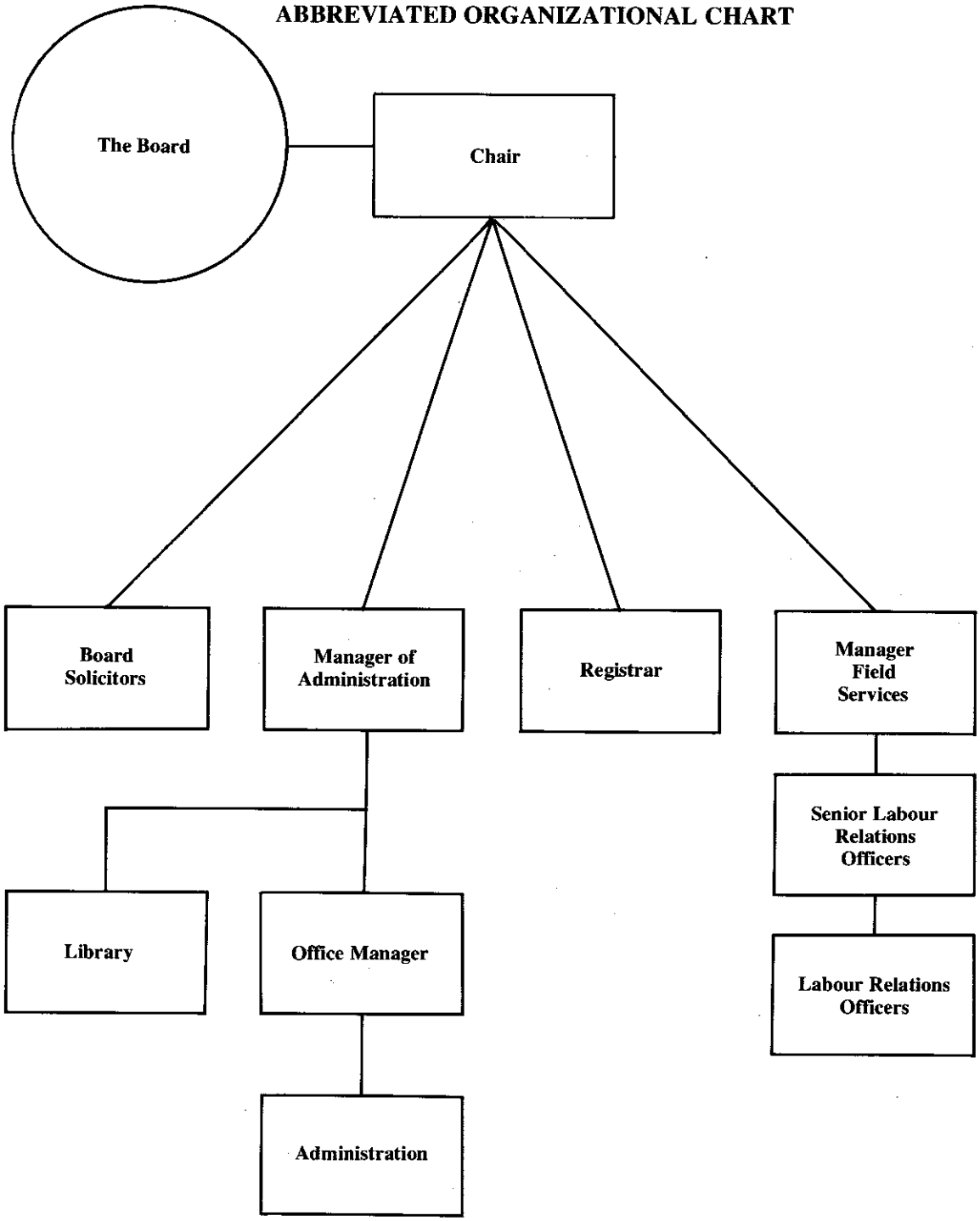


Front Row (left to right):
M. Nairn, D. Wozniak, V. Robeson, J. Rundle, R. MacDowell, R. Abella, T. Inniss, J. McCormack, R. Herman, C. Karcza, N. Satterfield
2nd Row
K. Rogers, M. Eayrs, K. MacDonald, N. Dissanayake, R. Furness, W. Gibson, C. Ballentine, J. Sarra, A. Hershkovitz, H. Kobryn, D. MacDonald, P. Hughes, C. Edwards
3rd Row
P. Grasso, J. Ronson, K. Petryshen, K. O'Neil, G. Surdykowski, B. Armstrong, R. Howe, O. Gray, W. Wightman, T. Meagher, P. Knopf, D. Patterson, R. Sloan
4th Row
H. Freedman, J. Kennedy, I. Stamp. G. Shamanski, R. Montague, R. Pirrie, N. Fraser, H. Peacock, W. Correll, F. Burnet. E. Theobald
Missing:
S. Tacon, M. Bendel, J. Campbell, L. Collins, A. Foucault, M. Jones, R. McMurdo, J. Murray, P. O'Keeffe, W. O'Neill, J. Redshaw, M. Ross, M. Stockton, J. Trim, N. Wilson, R. Swenor, I. Springate

III BOARD ORGANIZATION

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

ABBREVIATED ORGANIZATIONAL CHART



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*, R.S.O. 1980, c. 228, 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 certification of trade unions, unfair labour practices, first contract arbitration, unlawful strikes and lock-outs, jurisdictional disputes, and arbitration of grievances in the construction industry. In order to carry out this mandate the Board is composed of a Chair and an Alternate Chair, several Vice-Chairs and a number of Members representative of labour and management respectively in equal numbers. At the end of the fiscal year the Board consisted of the Chair, Alternate Chair, 13 full-time Vice-Chairs, 4 part-time Vice-Chairs and 41 Board Members, 17 full-time and 24 part-time. These appointments were 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 the formal hearings. The Board strives to keep its procedures informal, expeditious and fair.

The Board, under section 106(1) of the Act, 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 subject to appeal 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. New Practice Notes are published by the Board in its Monthly Report.

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, police officers or full-time fire fighters, 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,* R.S.O. 1980, c. 464 and the *Colleges Collective Bargaining Act*, R.S.O. 1980, c. 74. On the other hand, the Board has full jurisdiction over employees employed by municipalities. A distinct piece of legislation, the *Hospital Labour Disputes Arbitration Act*, stipulates special laws that govern labour relations of hospital employees, particularly with respect to the resolution of collective bargaining disputes and the *Successor Rights (Crown Transfers) Act*, R.S.O. 1980, c. 489 provides for application to the Board where there is a transfer of an undertaking from the crown to an employer and vice versa.

The Board is also given an important role under the *Occupational Health and Safety Act*, R.S.O. 1980, c. 321. A similar jurisdiction is conferred on the Board by section 134b of the *Environmental Protection Act*, R.S.O. 1980, c. 141, proclaimed in November 1983 by S.O. 1983, c. 52, s. 22. From time to time the Board is called upon to determine the impact of the *Canadian Charter of Rights and Freedoms* on the rights of parties under the *Labour Relations Act.*

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

(a) ADMINISTRATIVE DIVISION

The Registrar is responsible for co-ordinating 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. She 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 or on particular problems in the processing of any given case.

The Ontario Labour Relations Board is faced with a substantially increasing caseload, 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 resources allocated to it underpins much of its contribution to labour relations harmony in this province.

The Manager of Administration manages the day-to-day administrative operation while the Manager of Field Services manages the field operations. An Administrative Committee comprised of the Chair, Alternate Chair, Registrar, Manager of Administration, Manager of Field Services and Solicitors meets regularly to discuss all aspects of Board administration and management.

The administrative division of the Board includes: office management, case monitoring, and library services.

1. Office Management

An administrative support staff of approximately 59, headed by an Office Manager who reports to the Manager of Administration and a Senior Clerical Supervisor, process all applications received by the Board.

2. Case Monitoring

The Board continues to rely on its computerized case monitoring system. Data on each case are coded on a day-to-day basis as the status changes. Reports are then issued on a weekly and monthly basis on the progress of each proceeding from the filing of applications or complaints to their final disposition.

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 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. Library Services

The Ontario Labour Relations Board Library employs a staff of 3, including a full-time professional librarian. The Library staff provides research services for the Board and assists other library users.

The Board Library maintains a collection of approximately 1200 texts, 25 journals and 30 case reports in the areas of industrial relations, labour, contract, evidence, constitutional and administrative law. The library has approximately 4,500 volumes. The collection includes decisions from other jurisdictions, such as the Canada Labour Relations Board, the U.S. National Labor Relations Board and provincial labour boards across Canada.

The Library staff maintains computer indexes to the Board's Monthly Report of decisions. It provides access by subject, party names, file number, statutes considered, cases cited, date, etc. The system also provides a microfiche index to the decisions. It permits Board members and staff prompt and accurate access to previous Board decisions dealing with particular issues under consideration. The Board is the first labour relations tribunal in Canada to develop and implement this type of system. It has been reviewed by officials from a number of labour relations boards and may be used as a model in the development of other computerized retrieval systems.

The Library staff has also compiled a manual index to the Bargaining Units certified by the Board since 1980. This index provides access by union name and subject.

(b) FIELD SERVICES

In view of the Board's continuing belief that the interests of parties appearing before it, and labour relations in the province generally, are best served by settlement of disputes by the parties without the need for a formal hearing and adjudication, the Board attempts to make maximum use of its labour relations officers' efforts in this area. Responsibility for the division lies with the Manager of Field Services. In promoting overall efficiency, the manager puts emphasis upon the setting and monitoring of performance standards, case assignments, staff development and maintaining liaison with the Board. He is assisted by three Senior Labour Relations Officers, each of whom is assigned a team of officers. In addition to undertaking their share of the caseload in the field, the Senior Labour Relations Officers are responsible for providing guidance and advice in the handling of particular cases, managing the settlement process on certification days on a rotating basis, and assisting with the performance appraisals of the officers. In addition to the Labour Relations Officers, the Board employs three Returning/Waiver Officers. They conduct representation votes directed by the Board, as well as last offer votes directed by the Minister of Labour (see sec. 40 of the Act). They also carry out the Board's programme for waiver of hearings in certification applications.

The Board's field staff continued its excellent record of performance throughout the fiscal year under review. In relation to complaints under the *Labour Relations Act* and the *Occupational Health and Safety Act*, the officers handled a total caseload of 1032 assignments, of which 87.3 percent were settled by the efforts of the officers. The officers handled a total of 972 grievances in the construction industry of which 93.5 percent were settled. Of 274 certification applications dealt with under the waiver of hearings programme, the officers were successful in 213 or 78 percent.

The Alternate Chair of the Board supervises the activities of the field officers, and along with the Manager of Field Services and the Board Solicitors, meets with the officers on a monthly basis to deal with administrative matters and review Board jurisprudence affecting officers' activity and other policy and legal developments relevant to the officers' work.

(c) LEGAL SERVICES

Legal services to the Board are provided by the Solicitors' Office. The office consists of three Board solicitors, who report directly to the Chair. The Board also employs two articling students to assist the solicitors in carrying out the functions of the Solicitors' Office.

The Solicitors' Office 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 Chair, Vice-Chair 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 Solicitors' Office 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 solicitors. When preparation or revision of practice notes, Board Rules or forms become necessary, the solicitors are responsible for undertaking those tasks.

The solicitors are 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, a solicitor prepares 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 solicitors also advise the Board Librarian on the legal research material requirements of the Board and on the library's general acquisition policy.

Another function of the Solicitors' Office is the representation of the Board's interests 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, a solicitor, in consultation with the Chair, briefs and instructs such counsel on the Board's position in relation to the issues raised by the judicial proceedings. The Solicitors' Office 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 Solicitors' Office is responsible for all of the Board's publications. One of the Board's solicitors is the Editor of the Ontario Labour Relations Board Reports, a monthly series of selected Board decisions which commenced publication in 1944. This series is one of the oldest labour board reports in North America. In addition to reporting Board decisions, each issue of the Reports contains a section listing all of the matters disposed of by the Board in the month in question, including the bargaining unit descriptions, results of representation votes and the manner of disposition.

The Solicitors' Office also issues a publication entitled "Monthly Highlights". This publication, which commenced in 1982, contains scope notes of significant decisions of the Board issued during the month and other notices and administrative developments of interest to the labour relations community. This publication is sent free of charge to all subscribers to the Ontario Labour Relations Board Reports. The Solicitors' Office is also responsible for periodically revising the publication entitled "A Guide to the Labour Relations Act", which is an explanation in layman's terms, of the significant provisions of the Act. The latest revision took place in June, 1986, to reflect amendments to the Act.

MEMBERS OF THE BOARD

At the end of the fiscal year 1987-88, the Board consisted of the following members:

ROSALIE S. ABELLA *Chair*

Rosalie Abella assumed office as Chair of the Board on September 19, 1984. After graduating from University of Toronto Law School in 1970, she practised law until her appointment in 1976 as a judge of the Ontario Provincial Court (Family Division). In addition to carrying out her judicial functions, Rosalie Abella's professional background includes: Member, Ontario Public Service Labour Relations Tribunal, 1975-76; Commissioner, Ontario Human Rights Commission, 1975-80; Member, Premier's Advisory Committee on Confederation, Ontario, 1977-82; Co-Chairman, University of Toronto Academic Discipline Tribunal, 1976-1984; Director, International Commission of Jurists (Canadian Section), 1982 to the present; Director, Canadian Institute for the Administration of Justice, 1983 to the present; and Chairman, Report on Access to Legal Services by the Disabled, 1983; and Director, The Institute on Public Policy, 1987 to the present.

In 1983 Rosalie Abella was appointed as Sole Commissioner, Royal Commission on Equality in Employment. The report of this Commission was submitted to the Federal Government in November of 1984.

RICHARD (RICK) MacDOWELL *Alternate Chair*

Mr. MacDowell's educational background includes a B.A. (Honours) in Economics from the University of Toronto (1969), an M.Sc. (with Distinction) in Economics from the London School of Economics and Political Science (1970) and an 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-Chair 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. During May-August, 1984, Mr. MacDowell served as the Board's Alternate Chair in an acting capacity.

MICHAEL BENDEL *Vice-Chair*

Mr. Bendel joined the Board as a part-time Vice-Chair in September 1987. He is a graduate of the University of Manchester, England (LL.B., 1966) and the University of Ottawa (LL.B., 1975). Mr. Bendel was a legal officer with the International Labour Office, Geneva, Switzerland, from 1966 to 1969. From 1969 to 1974, he was employed by the Professional Institute of the Public Service of Canada (Ottawa) in various capacities, including in-house counsel and negotiator. Following his call to the Bar of Ontario in 1977, he was appointed professor in the Common Law Section, Faculty of Law, University of Ottawa, where he taught various labour law and other law courses, at the undergraduate and graduate levels, until 1984. In 1984, Mr. Bendel was appointed Deputy Chairman of the Public Service Staff Relations Board (Ottawa), where he was responsible for the interest arbitration function under the *Public Service Staff Relations Act* and where he also acted as grievance arbitrator. Upon resigning from that Board in August 1987, he entered private practice as a labour arbitrator. In addition to his arbitration practice and his part-time Vice-Chair position, Mr. Bendel is currently a part-time member of the Public Service Staff Relations Board. He is the author of several articles on labour law subjects in law journals.

NIMAL V. DISSANAYAKE *Vice-Chair*

A former Senior Solicitor of the Board, Mr. Dissanayake was appointed a part-time Vice-Chair of the Board in July, 1987. He holds the degrees of LL.B. and LL.M. from Queen's University, Kingston. Having served his period of law articles with the Board Mr. Dissanayake was called to the Ontario Bar in 1980. Prior to joining the Board as a solicitor he taught at the Faculty of Business, McMaster University, Hamilton, as Assistant Professor of Industrial Relations between 1978 and 1980. Since December 1987, he has served as a Vice-Chairman of the Grievance Settlement Board and is also engaged in adjudication as a private arbitrator and referee under the *Employment Standards Act*.

HARRY FREEDMAN *Vice-Chair*

Mr. Freedman was appointed a Vice-Chair of the Board in September, 1984. Having acquired the degrees of B.A. (University of Toronto, 1971) and LL.B. (Osgoode Hall Law School, 1975), Mr. Freedman was called to the Ontario Bar in 1977. He practised labour law with a Toronto law firm until April, 1979, when he became the Ontario Labour Relations Board's Senior Solicitor. He held this position until his appointment as Vice-Chair. Mr. Freedman has been associated with Ryerson Polytechnical Institute for several years as a lecturer in industrial relations, and has taught a seminar course in grievance arbitration at Osgoode Hall Law School. He has authored several papers on labour relations practice in Ontario, and actively participates in the preparation of the labour law continuing education programme of the Law Society of Upper Canada. Mr. Freedman is an instructor in the Public Law section of the Law Society's Bar Admission Course and also acts as an arbitrator.

R. A. (RON) FURNESS *Vice-Chair*

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 LL.M. from York University in 1968. Mr. Furness first joined the Labour Relations Board as its Solicitor in 1963. He was appointed a Vice-Chair in 1969.

OWEN V. GRAY *Vice-Chair*

Mr. Gray joined the Board as a Vice-Chair in October, 1983. He is a graduate of Queen's University, Kingston (B.Sc. Hons, 1971) and the University of Toronto (LL.B. 1974). After his call to the Ontario Bar in 1976, Mr. Gray practised law with a Toronto law firm until his appointment to the Board.

ROBERT J. HERMAN *Vice-Chair*

Mr. Herman was appointed a Vice-Chair of the Board in November, 1985, and was at that time a Solicitor for the Board. He is a graduate of the University of Toronto (B.Sc. 1972, LL.B. 1976) and received his LL.M. from Harvard University in 1984. Mr. Herman has taught courses in various areas of law, both at Ryerson Polytechnical Institute and the Faculty of Law, University of Toronto.

ROBERT D. HOWE *Vice-Chair*

Mr. Howe was appointed to the Board as a part-time Vice-Chair in February, 1980 and became a full-time Vice-Chair effective June 1, 1981. He graduated with a LL.B. (gold medallist) from the Faculty of Law, University of Windsor in 1972 and was called to the Bar in 1974. From 1972 to 1977 he was a law professor of the Faculty of Law, University of Windsor. From 1977 until his

appointment to the Board, he practised law as an associate of a Windsor law firm while continuing to teach on a part-time basis at the Faculty of Law as a special lecturer in labour law and labour arbitration. Mr. Howe is an experienced arbitrator, referee, fact-finder and mediator. During May-August, 1984, Mr. Howe served as Chairman of the Board in an acting capacity.

PATRICIA HUGHES *Vice-Chair*

Patricia Hughes is a graduate of McMaster University (B.A. Hons., 1970; M.A., 1971) and the University of Toronto (PH.D., 1975, in Political Economy). After teaching political science for four years at Nipissing University College in North Bay, Dr. Hughes entered Osgoode Hall Law School. She was called to the Ontario Bar in 1984. As counsel in the Policy Development Division of the Ontario Ministry of the Attorney General, she assessed Ontario legislation in light of the requirements of the *Canadian Charter of Rights and Freedoms*, with particular responsibility for pension legislation. She has researched, lectured and published in Canadian politics, feminist analysis, the Charter of Rights, and pay equity. Dr. Hughes was appointed to the Board as a Vice-Chair in April, 1986.

PAULA KNOPF *Vice-Chair*

Mrs. Knopf joined the Board as a part-time Vice-Chair in August, 1984. She graduated with a B.A. from the University of Toronto, 1972, and LL.B. from Osgoode Hall Law School, 1975. Upon her call to the Ontario Bar in 1977, she practised law with a Toronto law firm briefly before commencing her own private practice with emphasis in the area of labour relations. A former member of the faculty of Osgoode Hall Law School, Mrs. Knopf is an experienced fact-finder, mediator and arbitrator.

JUDITH McCORMACK *Vice-Chair*

Ms. McCormack was appointed to the Board as a Vice-Chair in 1986. She did her undergraduate work at Simon Fraser University, and graduated with an LL.B. from Osgoode Hall Law School in 1976. Upon her call to the Bar in 1978, she practiced labour law for the next eight years, first with a Toronto law firm and later as an in-house counsel. In 1986 received her LL.M. in labour law from Osgoode Hall Law School. Ms. McCormack is the author of a number of articles on labour relations and has lectured in this area.

KATHLEEN O'NEIL *Vice-Chair*

Ms. O'Neil, a graduate of the University of Toronto (B.A. 1972) and Osgoode Hall Law School (LL.B., 1977) was a Vice-Chair of the Workers' Compensation Appeals Tribunal prior to her appointment to the Board in January, 1988. She has worked as an arbitrator, has had a private practice in nursing and labour relations law, worked as staff lawyer to nurses' and teachers' associations, served as a member of the Ontario Crown Employees Grievance Settlement Board and chaired the justice committee of the National Action Committee on the Status of Women.

KEN PETRYSHEN *Vice-Chair*

Mr. Petryshen was appointed a Vice-Chair in June, 1986. He is a graduate of the University of Saskatchewan, Regina (B.A. Hons., 1972) and Queen's University, Kingston (LL.B. 1976). After articling with the Ontario Labour Relations Board and after his call to the Bar in 1978, Mr. Petryshen practised law as a staff lawyer for the Teamsters Joint Council, No. 52. Prior to his appointment as a Vice-Chair, Mr. Petryshen was a Board Solicitor.

NORMAN B. SATTERFIELD *Vice-Chair*

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-Chair. 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 was involved in labour relations activities in the brewing, heavy manufacturing and construction industries for over 25 years prior to his appointment as a Vice-Chair.

IAN C.A. SPRINGATE *Vice-Chair*

Mr. Springate was originally appointed a Vice-Chair of the Board in May of 1976. He served as the Board's Alternate Chair from October 1984 to February 1987. He has degrees of B.A. with distinction (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-Chair. Mr. Springate taught in the M.B.A. programme at McMaster University on a part-time basis as a special lecturer in industrial relations from 1973 to 1978. From February 1984 to January 1985, he served as Acting Chairman of the Crown Employees Grievance Settlement Board. He has also served as a Board of Inquiry under the *Human Rights Code* and as a Referee under the *Employment Standards Act*. Mr. Springate reverted to part-time Vice-Chair status with the Board in February 1987, and is now engaged primarily as an arbitrator.

INGE M. STAMP *Vice-Chair*

Mrs. Stamp joined the Labour Relations Board in August, 1982 as a full-time Board Member representing management. In September of 1987, she was appointed a Vice-Chair. Mrs. Stamp comes to the Board with many years experience in construction industry labour relations. She also represented the Industrial Contractors Association of Canada during province-wide negotiations as a member of several employer bargaining agencies.

GEORGE T. SURDYKOWSKI *Vice-Chair*

Mr. Surdykowski joined the Board as a Vice-Chair in June, 1986. He is a graduate of the University of Waterloo (B.E.S., 1974) and Osgoode Hall Law School (LL.B. 1980). After his call to the Ontario Bar in 1982, Mr. Surdykowski practised law in Toronto until his appointment to the Board.

SUSAN TACON *Vice-Chair*

Susan Tacon was appointed to the Board as a Vice-Chair, in July 1984. Her educational background includes a B.A. degree (1970) in Political Science from York University and LL.B. (1976) and LL.M. (1978) degrees from Osgoode Hall Law School specializing in the labour relations area. Ms. Tacon taught a seminar in collective bargaining and grievance arbitration at Osgoode Hall Law School for several years and also lectured there in legal research and writing. She has several publications to her credit including a book and articles in law journals and is an experienced arbitrator.

Members Representative of Labour and Management

BROMLEY L. ARMSTRONG

A well-known civil rights leader, Mr. Armstrong was appointed a full-time Member of the Board representing labour in February 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. Mr. Armstrong was honoured by the Government of Jamaica when he was appointed a Member of the Order of Distinction in the rank of officer, in the 1983 Independence Day Civil Honours List, and the City of Toronto Award of Merit, March 1984.

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 Vice-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.

FRANK C. BURNET

In December, 1983, Mr. Burnet was appointed a part-time Board Member representing management. After graduating from the University of Saskatchewan (B.A. Economics, 1940) Mr. Burnet was engaged in personnel capacities in several corporations in Ontario and Quebec. In 1970 he joined Inco Ltd., as its Director of Industrial Relations responsible for all Canadian Operations. From 1972 until his retirement in 1982, Mr. Burnet held the position of Vice-President Employee Relations, responsible for employee relations activities in Canada, U.S., U.K., and other foreign operations. The many offices Mr. Burnet has held include: Chairman, National Industrial Relations Committee of the Canadian Manufacturers' Association, 1978-81; Governor and Member of the Executive Committee of the Canadian Centre for Occupational Health and Safety, 1982-83; Member of OECD Joint Labour-Management team studying technological change in the U.S. (1963) and incomes policy in the U.K. and Sweden, (1965).

JACQUELINE CAMPBELL

Ms. Campbell was appointed a part-time Board Member representing management in March, 1986. Ms. Campbell, who holds a B.A. from the University of Ottawa, has a long career in personnel administration with the Ontario Government. In 1980 she was appointed Personnel Commissioner for the City of Scarborough. Ms. Campbell is a former Director and Vice-President of the Personnel Association of Toronto and a current member of the Toronto Chapter Executive of the Institute of Public Administration, the Ontario Government's Classification Rating Committee, Public Service Grievance Board, and the Financial Times Human Resources Advisory Board.

LEONARD C. COLLINS

Mr. Collins was appointed a part-time Member of the Board representing labour in November, 1982. Prior to joining the Board Mr. Collins had been very active in the trade union movement in Ontario. From 1945 to 1960 he held various positions with Local 232 of the United Rubber Workers, including the positions of Vice-President from 1950 to 1954 and President from 1954 to 1960. In 1960 he was appointed International Field Representative for the United Rubber Workers and later served as acting Director of District 6.

WILLIAM A. CORRELL

A graduate of McMaster University (B.A. 1949), Mr. Correll was appointed in January, 1985, as a part-time Board Member representing management. In January 1988 he was appointed a full-time member of the Board. He joined the Board with an impressive background in the personnel field. Having held responsible personnel positions at Stelco, Atomic Energy of Canada Limited and DeHavilland Aircraft of Canada Limited for a number of years, Mr. Correll joined Inco Limited in 1971. After serving as that company's Assistant Vice-President and Director of Industrial Relations, in 1977 Mr. Correll became Vice-President of Inco Metals Company. He was later appointed Vice-President, Inco Ltd. and retired in 1985. He has lectured on personnel and management subjects at community college and university level and has conducted seminars for various management groups. He is active as management representative on boards of arbitration and on various management organizations.

JEFFREY F. DAVIDSON

Mr. Davidson was appointed a full-time Board Member representing management in July, 1987. Mr. Davidson came to the Board with many years in the field of industrial relations, having worked for Supreme Aluminum Industries for nearly twenty years. He began his career there as a customs/traffic co-ordinator, later becoming industrial relations manager. Mr. Davidson was a member of the Canadian Manufacturers' Association and past Chairman of the CMA Task Force on Unemployment Insurance. He died in November, 1987.

MICHAEL EAYRS

Mr. Eayrs was appointed a part-time Board Member representing management in 1979. 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; Executive Secretary of the Joint Labour-Management Construction Industry Review Panel; Director of Industrial Relations, Kaiser Canada; Manager of Industrial Relations of the SNC Group; and Executive Director of the Construction Employers Co-ordinating Council of Ontario. Mr. Eayrs is a past Chairman of the National Labour Relations Committee of the Canadian Construction Association, and is presently a vice-chairman of the Joint Labour-Management Construction Industry Advisory Board. He is presently an Adjunct Associate Professor in the Faculty of Engineering of the University of Waterloo, where he lectures in construction industry labour relations.

ANDRE ROLAND FOUCAULT

Mr. Foucault was appointed a part-time Board Member representing labour in January, 1986. A member of the Canadian Paper Workers Union since 1967, he has held several elected positions within that union, including that of first Vice-President. In February 1982, Mr. Foucault joined the staff of the Canadian Paperworkers Union as a National Representative. In 1976 he was appointed to the position of Programmes Co-ordinator of the Ontario Federation of Labour.

W. NEIL FRASER

Prior to being appointed a full-time Board Member representing management on January 1, 1988, Mr. Fraser was executive director of the Canadian, Ontario and Metro Toronto Masonry Contractors Associations. He served as employer spokesman in province-wide collective bargaining for the Bricklayer and Mason Tender Agreements. He represented the masonry industry on a number of technical committees for building code and technical standards. He is a past president, Toronto Chapter Institute of Association Executives, and biographee since 1982 in Who's Who in America.

WILLIAM GIBSON

Prior to being appointed a full-time Board Member representing management in November 1987, Mr. Gibson was Vice-President Industrial Relations for Robert-McAlpine Ltd., a position he had held since 1976. From 1946 to 1976 Mr. Gibson held various other administrative positions in the McAlpine group of companies. He has been Chairman or President of many major Contractors Associations, through which he has been actively involved in the negotiation and administration of collective agreements at the local, provincial and national levels. He was a part-time Board Member representing management from 1978-1984.

PAT V. GRASSO

Appointed a part-time member of the Board representing labour in December, 1982, Mr. Grasso has been active in the labour movement in Ontario for many years. Having held various offices in District 50 of the United Mine Workers of America, he was appointed Staff Representative in 1958, and Assistant to the Regional Director for Ontario in 1965. In 1969, Mr. Grasso became the Regional Director for Ontario and was elected to the International Executive Board. When District 50 merged with the United Steelworkers of America in 1972, he became Staff Representative of the Steelworkers in charge of organizing in the Toronto area. In January 1982, Mr. Grasso was transferred to the District 6 office of the Steelworkers and appointed District Representative in charge of co-ordinating, organizing and special projects.

ALBERT HERSHKOVITZ

Prior to being appointed a part-time Board Member representing labour in September, 1986, Mr. Hershkovitz served as business agent for the Fur, Leather, Shoe and Allied Workers' Union and the Amalgamated Meat Cutters and Butcher Workmen. He has been President of the Ontario Council-Canadian Food and Allied Workers, Vice-President of the Ontario Federation of Labour and Chairman of the Metro Labour Council, Municipal Committee. As well as being Chairman of the Ontario Jewish Labour Committee and Vice-Chairman of the Urban Alliance for Race Relations, Mr. Hershkovitz has served as a member of the Board of Referees of the Unemployment Insurance Commission.

MAXINE A. JONES

A community college teacher of English and Political Science, Ms. Jones was appointed a part-time Board Member representing labour in April 1987. Ms. Jones holds Bachelor degrees in Journalism and Political Science, a graduate degree in the latter, and has completed all but her dissertation for her doctorate. Her union experience is extensive and includes being the most senior member of the Ontario Public Service Union's Provincial Board. In addition, she has extensive grievance arbitration experience in her home city, Windsor. Also in Windsor, Ms. Jones is a member of a number of community agency boards, including the Windsor Occupational Safety and Health Board, and has served in several City Council appointed positions.

JOSEPH F. KENNEDY

Mr. Kennedy is the Business Manager of the International Union of Operating Engineers, Local 793, having served as Treasurer before becoming Business Manager. He has been instrumental in establishing a compulsory training program for hoisting engineers in the Province of Ontario. Mr. Kennedy is a Trustee for the Pension and Benefit Plans of Local 793, as well as a Trustee for the General Pension Plan of the International Union of Operating Engineers in Washington, D.C. He is a member of the National Safety Council, Chicago, Illinois, a member of the Construction Industry Advisory Board for the Province of Ontario, a Director of the Ontario Building Industry Development Board and, since May, 1983, he has been a part-time member of the Ontario Labour Relations Board representing labour.

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 1958-1962; Secretary Treasurer of the same council, 1962-1980; 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.

DONALD A. MACDONALD

Prior to being appointed a full-time Board Member representing management in July, 1986, Mr. MacDonald was active in personnel management at Brown & Root Ltd. from 1957 to 1968 and at Lummus Canada from 1968-1981. From 1981 until his appointment at the Board, Mr. MacDonald was President of the Boilermaker Contractors' Association where he was responsible for negotiations, contract administration and liaison with other trade associations. Other activities include Chairman of the Industrial Contractors Association National Committee and Director of the Electrical Power Systems Construction Association.

ROBERT D. McMURDO

Since April of 1984, Mr. McMurdo has served as a part-time Board Member representing management. An honours graduate in business administration (1953) from the University of Western Ontario, Mr. McMurdo has held many industry related offices including: President of the London & District Construction Association, President of the Construction Safety Association of Ontario and President of the Ontario General Contractors Association. He is the President of McKay-Cocker Construction Limited and McKay-Cocker Structures Limited of London and is currently a member of the Ministry of Labour Construction Industry Advisory Board.

TERRY MEAGHER

Mr. Meagher was appointed a part-time Board Member representing labour in October, 1985. From 1970 to 1984, Mr. Meagher served as Secretary Treasurer of the Ontario Federation of Labour. Prior to that he has held the positions of Business Agent, Local 280 of the Beverage Dispensers and Bartenders Union and Executive Secretary to the Labour Council of Metropolitan Toronto. He has also served as Vice-Chairman of the Canadian Labour Congress, Human Rights Committee and member of the Canadian Labour Congress International Affairs Committee.

RENE R. MONTAGUE

In March of 1986 Mr. Montague was appointed a full-time Board Member representing labour. A member of the United Auto Workers for many years, Mr. Montague maintained many responsible positions in the union, including plant chairperson of Northern Telecom. He has extensive arbitration and bargaining experience. In 1985 Mr. Montague was elected to the Executive Committee of the United Way of Greater London and was a member of the Board of Directors and Campaign Committee of the United Way.

JOHN W. MURRAY

In August of 1981, Mr. Murray was appointed as a part-time member of the Board representing management. Mr. Murray earned a B.A. degree in Maths and Physics as well as an M.A. degree from the University of Western Ontario. Having served as a Lieutenant with the Royal Canadian Navy during the Second World War, he commenced a career in sales in 1946. He joined the Purchasing Department of John Labatt Ltd. in 1956, becoming Director of Purchasing in 1957. He subsequently held a number of Senior Management positions in the Labatt Group of companies in several parts of the country. He was a vice-president of Labatt Brewing Company for several years before his retirement in January 1982.

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 C.U.P.E. and presently holds the office of Ontario Regional Director of C.U.P.E., and is also a Vice-President of the Ontario Federation of Labour.

WILLIAM S. O'NEILL

In March, 1986 Mr. O'Neill was appointed a part-time Board Member representing management. Since 1969 Mr. O'Neill has held many responsible positions with Ontario Hydro, including Senior Construction Labour Relations Officer and Manager of Construction Labour Relations. He is a past Secretary-Treasurer of the Electrical Power Systems Construction Association and is currently its General Manager. He is also a director at large of the Construction Owners Council of Ontario.

DAVID A. PATTERSON

Mr. Patterson was appointed a full-time Board Member representing labour in April, 1986. A member of the United Steelworkers of America for many years, he was elected President of Local 6500 in 1976 and re-elected 1979 and 1981. In 1981 Mr. Patterson ran and was elected Director, District 6 of the United Steelworkers of America. He served in that position until March 1986. He was elected Vice-President at large at the 1982 CLC convention and re-elected to that position in 1984. He has served as Chairman of the Safety and Health Convention Committee (CLC) as well as a member of the Board of Directors of the Mine Accident Prevention Association of Ontario. He was a member of the Ontario Labour Management Study Group.

HUGH PEACOCK

Mr. Peacock was appointed a full-time Board Member representing labour in November, 1986. Prior to joining the Board Mr. Peacock was Legislative Representative for the Ontario Federation of Labour which enabled him to gain broad knowledge of the legislative and political process in

Ontario as well as its labour relations system. He came to the OFL after having been the Woodworkers' Education and Research Representative (1960-1961), worked in the UAW Canada Research Department (1962-1967), and having been a negotiator for the Toronto Newspaper Guild (1972-1976). Mr. Peacock was a member of the Ontario Parliament, representing Windsor West (NDP) from 1967 to 1971. He is currently a member of various social and community organizations.

ROSS W. PIRRIE

Mr. Pirrie was appointed a part-time Board Member representing management in January, 1985. Having been employed by Canadian National Railways for ten years, in 1960 he joined Shell Canada Limited. At Shell Canada, Mr. Pirrie held a wide range of managerial positions in general management, occupational health, human resources and industrial relations before retiring in 1984. Mr. Pirrie holds the degree of B.A. (Psychology) from the University of Toronto.

JOHN REDSHAW

Mr. Redshaw was appointed a full-time Board Member representing labour in July, 1986. From 1966 to 1971 he served as business representative for Local 793, International Union of Operating Engineers. He was area supervisor for Hamilton, St. Catharines and Kitchener, a position which included organizing and negotiation of all collective agreements in the construction industry. From 1979 until his appointment to the Board Mr. Redshaw worked in the Union's Labour Relations Department, first in Toronto and then Cambridge. He has been Secretary-Treasurer of the Canadian Conference of Operating Engineers and Secretary of the Waterloo, Wellington, Dufferin, Grey, Building Trades Council.

KENNETH V. ROGERS

Mr. Rogers was appointed in August, 1984, as a part-time Board Member representing labour. From 1967-1976, he was a representative with the International Chemical Workers Union and served as Secretary-Treasurer of the Canadian Chemical Workers Union during 1976-1980. Since the Energy and Chemical Workers Union was founded in 1980, Mr. Rogers has been its Ontario Co-Ordinator. He is a former Vice-President of the Ontario Federation of Labour.

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 an 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.

JUDITH A. RUNDLE

Ms. Rundle was appointed a full-time Board Member representing management in July, 1986. She joined the Board with an impressive background in the personnel field. After the University of Toronto, Ms. Rundle held responsible personnel positions at Toronto General Hospital and National Trust Company. Ms. Rundle joined the Riverdale Hospital in 1979, first as Assistant to the Director of Personnel and subsequently as Assistant Administrator of Human Resources. From January 1986 until her arrival at the Board, Ms. Rundle was employed as Acting Director of Personnel and Labour Relations at Toronto General Hospital. She was active as management representative on boards of arbitration and has been a member of various management organizations.

JANIS SARRA

Ms. Sarra was appointed a full-time Board Member representing labour in July, 1986. She was Human Rights Director of the Ontario Federation of Labour. Ms. Sarra has an M.A. in political economy from the University of Toronto and has been an instructor in occupational health and safety for the Centre for Labour Studies, Humber College. From 1979 to 1984 she was a Research Associate, Labour Relations and Women's Equality for the NDP Caucus, Legislative Assembly. Ms. Sarra was Executive Assistant to a Toronto city alderman from 1976 to 1979 and was formerly a researcher, Health Advocacy Unit, City of Toronto. She has been an active member of OPSEU, CUPE and OPEIU, holding offices such as steward, chair health and safety committee and negotiating team.

GORDON O. SHAMANSKI

A graduate of the University of Chicago (B.A.), Mr. Shamanski was appointed a full-time Board Member representing management in July, 1986. He joined the Board with an impressive background in the personnel field, having been Personnel Manager at Rothmans of Pall Mall Canada Ltd., 1963-1970, and at Canadian Motor Industries Holdings Limited, 1970-1971. From 1972 to 1985 Mr. Shamanski was Corporate Director of Personnel and Industrial Relations at Domglas Inc. where he was responsible for labour contract negotiations, labour board hearings, compensation and benefits design, health and safety, management development and training, and staff recruitment. He has lectured in industrial relations and is a member of various management organizations.

ROBERT M. SLOAN

Prior to being appointed a full-time Board Member representing management in November, 1986, Mr. Sloan was employed by Alcan as Corporate Industrial Relations Manager and Occupational Health and Safety Co-ordinator. In this capacity Mr. Sloan, a graduate of Sir George Williams University (B.A.) was directly involved in all phases of the personnel and labour relations scene including representation in various management organizations.

MALCOLM STOCKTON

Mr. Stockton was appointed a part-time Board Member representing management in October, 1985. He earned a law degree from Osgoode Hall Law School in 1973 and was called to the Ontario Bar in 1975. Since then he has engaged in the practice of law in Niagara Falls, Ontario. He has served as a fact-finder, mediator, and arbitrator for the Education Relations Commission since 1976.

E.G. (TED) THEOBALD

Mr. Theobald was appointed as a part-time Board Member representing labour in December, 1982. From 1976 to June, 1982, he was an elected member of the Board of Directors of O.P.S.E.U., and during this period served a term as Vice-President. A long time political and union activist, Mr. Theobald has served as President and Chief Steward of a 600 member local union. He has served on numerous union committees and has either drafted or directly contributed to several labour relations related reports. He is experienced in grievance procedure and arbitration.

JANET TRIM

Appointed a part-time Board Member representing management in May, 1987, Ms. Trim comes to the Board with many years of experience in construction labour relations. Representing the General Contractors, she has been a member of negotiating committees formed to bargain provincial collective agreements. She had also served for several years as a management trustee on a Welfare and Pension Trust Fund.

W.H. (BILL) WIGHTMAN

Mr. Wightman was first appointed to the Board in 1968, becoming a full-time member in 1977, and resigned from the Board in April 1979, in order to serve as a member of the 31st Parliament of Canada and Parliamentary Secretary to the Minister of Labour. He was re-appointed as a full-time Board Member representing management in May, 1981. Following 12 years as an industrial relations specialist in the petro-chemical, food processing and health care industries in the U.S. and Canada, he became Director of Industrial Relations for the Canadian Manufacturers' Association from 1966 to 1977. Concurrently, he served as the Canadian Employer Delegate and Technical Advisor to the International Labour Organization in Geneva and the Organization for Economic Co-operation and Development in Paris, and as a member of the Canada Manpower and Immigration Council, the Unemployment Insurance Advisory Committee and the Attorney-General's Committee on Prison Industries. He is a graduate of Clarkson University (BBA '50) and Columbia University (MS '54).

JAMES P. WILSON

For a number of years Mr. Wilson was the Director of Operations for a multi-trade contractor in the construction industry. Prior to joining the Board he served as the Labour Relations Consultant to the Electrical Contractors Association of Ontario for 10 years. Mr. Wilson has served as the President of the 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. Mr. Wilson passed away in September, 1987.

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 the 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.

DANIEL WOZNIAK

Mr. Wozniak was appointed a part-time Board Member representing management in March, 1987. A graduate of the University of Manitoba (B.A.) and the Manitoba Law School (LL.B.), Mr. Wozniak has held various personnel-related positions. He started his business career with DuPont of Canada Ltd. where he held various positions in the employee relations department. In 1960, he joined Standard Brands Limited (now known as Nabisco Brands Ltd.) in Montreal and was promoted to the position of Vice-President, Personnel and Industrial Relations. In 1976 he joined Canada Wire and Cable Ltd. in Toronto where he held the position of Vice-President, Personnel and Industrial Relations until his retirement in 1987. A member of various management organizations, Mr. Wozniak served as the Deputy Employer's representative to the 72nd ILO Convention in Geneva (1986).

V HIGHLIGHTS OF BOARD DECISIONS

Incumbent union cannot intervene in raiding union's access application

In this case, the applicant union sought a direction pursuant to s.11 allowing access to the respondent employer's property for the purpose of attempting to persuade the employees to join the applicant. The employees resided on the property of the respondent. The incumbent union sought to intervene for the purpose of opposing the access order. The Board held that while a direction under s.11 does limit or modify an employer's pre-existing property rights, the legal rights of the intervener would not be affected in any way nor would its rights under the Act impeded in any way. The concern of the incumbent did not amount to a legal foundation for intervention, even if it had an "interest" in a general sense. In addition, the Board found that s.11 is applicable to "raids", in which one union is seeking to displace another. The right of access is just as important in a raid situation as in the case of an unorganized group of employees, perhaps even more important because the incumbent will have an established presence and access must be available so that a rival can orchestrate its organizing campaign to capitalize on the "open period". The incumbent was denied the right to intervene in the proceedings. *Domtar Inc.*, [1987] OLRB Rep. Apr. 485.

Remedy for ongoing breach of successive collective agreements limited to current and most recently expired agreement

In this s.124 construction industry grievance, the Board found that the respondent employer had breached each of a number of successive two year collective agreements by failing to make the appropriate benefit contributions and dues deductions. The applicant was unaware of the breaches throughout this period. The employer argued that the Board had no jurisdiction to remedy a breach of any collective agreement prior to the one which had just expired when the grievance was referred to the Board, relying on the award of a board of arbitration in *Re Goodyear Canada Inc.* (1980), 28 L.A.C. (2d) 196. In rejecting this argument, the Board noted that its jurisdiction comes not from an appointment under a collective agreement but from s.124 of the Act, subsection (3) of which gives the Board "exclusive jurisdiction to hear and determine the difference or allegation raised in the grievance referred to it". The Board also held that the opening words of subsection 124(1) relieve the referring party from compliance with any collective agreement requirement that steps be taken after the delivery of the written grievance before there can be a referral to arbitration. However, those words do not relieve the referring party from the consequences of non-compliance with an agreed time limit for the delivery of a written grievance. Nevertheless, the Board concluded that by virtue of subsections 124(3) and 44(6)of the Act, it has the power to extend the time limit set out in the relevant collective agreements unless the agreements expressly state that subsection 44(6) does not apply. None of them did. Grounds to extend the time limit under subsection 44(6) exist where a grievor does not know and could not be reasonably expected to have known of the grievous act within the time limit set out, subject only to whether this will cause substantial prejudice to the opposite party. The Board was satisfied that the time limits should be extended in this case. In considering how far back to extend the remedy, the Board found that although the lack of prior knowledge of the factual basis of the grievance obviates the application of conventional doctrines of *estoppel* and *laches*, the underlying labour relations rationale for importing the doctrine of *laches* into the arbitration of disputes arising under

collective agreements has greater scope. Even though a party is unaware of the *facts* on which the claim is based, it may be unfair to permit the party to pursue the claim, if, at the time those facts occurred, it acted indifferently about the *rights* on which its claim is based. It held that the applicant chose to act indifferently about the method and accuracy of the employer's calculation of benefits and dues deductions. After taking a number of factors into account, the Board concluded that the remedy should only extend to breaches of the current agreement and the most recently expired collective agreement. *Ontario Hydro*, [1987] OLRB Rep. Apr. 574.

Industrial trade union may apply for certification in respect of construction industry employees

In this application for certification in the construction industry, the issue was whether an industrial trade union can represent construction industry workers of a construction industry employer. The applicant union conceded that it did not fall within the definition of "trade union" in s.117(f), as it did not pertain to the construction industry. Section 119 of the Act states, in part, that where a trade union applies for certification as bargaining agent of the employees of an employer, the Board shall determine the appropriate bargaining unit. The respondent employer argued that the words "employer" and "employees" in s.119 are defined in s.117 and therefore only a union within the meaning of s.117(f) could apply for certification pursuant to s.119. The respondent also referred to s.144 and asserted that only trade unions as defined by s.117(f) may apply for certification in relation to the industrial, commercial and institutional (ICI) sector of the construction industry.

The Board rejected these arguments. Section 144(5) allows a trade union that is not represented by a designated or certified bargaining agency to bring an application for certification. The definition of "trade union" in s.117 applies only to ss. 117-136. In addition, the term is not defined in section 137, the definition section relating to province-wide bargaining. The only definition left is that in s.1(1)(p) and the applicant is a trade union as defined by that section. As the applicant did not meet the s.117(f) definition, it could not take the benefit of the construction industry provisions of the Act, in particular s.119. However, nothing in the Act prohibited the applicant from seeking certification of construction industry employees of a construction industry employer, although neither the applicant nor the employees would be part of the province-wide scheme. If the applicant were certified, section 146 would not preclude it from negotiating a collective agreement in the ICI sector because the union is not an affiliated bargaining agent. The applicant could bring an application for certification under the general provisions of the Act. *Pickering Welding & Steel Supply*, [1987] OLRB Rep. Apr. 595.

Standard of just cause for discharge may be different in construction industry than in other industries

This case involved the discharge of an employee in the construction industry for walking off the job without obtaining permission and without giving any reasons. The applicant argued that the employee's discharge was "not for just cause" and consequently was contrary to the collective agreement in operation between the employer and the applicant. The respondent argued that the misconduct of the grievor was sufficient to warrant the discharge, considering events that occurred before the discharge and the nature of the employment relationship in the construction industry. The majority of the Board examined whether there are aspects of the construction industry which impact on the standard of just cause in matters of discipline. It adopted the approach set out in *Canadian Engineering and Contracting Co. Ltd.*, [1983] OLRB Rep. July 1017. That case found that the employer-employee relationship in the construction industry is not a close one, and is not comparable with relationships that arise between employers and employees in an industrial setting. Employment relationships are transitory and workers will be referred from the hiring hall and employed for short periods of time without the kind of pre-selection which would be undertaken

by an industrial employer before engaging workers on a long-term basis. The Board in that case accepted the need for a certain amount of realism and arbitral restraint in determining what constitutes just cause for discharge in the construction context, but went on to hold that the considerations to be applied need not be totally different from those applied in other industries. The majority in this case noted that the longer an employee has worked and is expected to work on a construction project, the more likely an arbitrator will apply considerations which pertain to industry in general when assessing whether an employer has established just cause for discharge. After an analysis of the case before them, the majority concluded that the employee's discharge was without just cause and a five day suspension was substituted for the discharge. *Comstock International Ltd.*, [1987] OLRB Rep. May 667.

Refusal to agree to just cause clause in collective agreement leading Board to direct settlement of first contract by arbitration

This case involved an application brought under s.40a of the Act (first contract arbitration). The applicant union had been engaged in protracted negotiations with the respondent employer in an attempt to reach a first collective agreement. Negotiations collapsed over the wording of the dismissal clause. The respondent desired a clause which would allow dismissal without just cause upon payment in lieu of notice. The applicant would accept only dismissal on just cause. The majority considered whether the respondent's position was "uncompromising" and "without reasonable justification". There was little difficulty in finding the employer uncompromising; it had maintained the same position on the just cause clause for over two years. There was greater difficulty in defining "reasonable". The majority held that the term must mean something more than simply a rational relationship between a bargaining position and a party's self-interest. Rather, the legislation drew the majority into an assessment of whether a given proposal or position is reasonable in objective terms. This is so because reasonableness is a relative concept which depends largely if not entirely upon the context in which the examination is made. In considering s.40a(2)(b), this will include both the general landscape of labour relations and the specific labour relationship between the parties. In many cases such an assessment will also require the weighing and balancing of the opposing interests of the parties which they seek to pursue by way of their negotiating positions. The determination of intrinsic reasonableness of a negotiating position under s.40a represents a departure from the jurisprudence which has evolved under s.15, the duty to bargain in good faith. That jurisprudence reflects a conscious intention to avoid reviewing the fairness or reasonableness of a negotiating proposal as an exercise in itself. Rather, the Board's interest under a s.15 inquiry centers on whether a manifestly unreasonable proposal indicates the presence of bad faith or a failure to make a collective agreement. In assessing the case at hand the majority held, after balancing the need for convenience of the respondent against the job security of employees, that the respondent's insistence on the termination provision was without reasonable justification.

The respondent argued that the conditions of 40a(2)(b) were not met because bargaining broke down, at least in part, due to the equally uncompromising position of the applicant. The majority, in rejecting this argument, held that there is no requirement in s.40a(2)(b) that the respondent's position be the *sole* cause of the failure of negotiations. Rather, the emphasis is on the existence of a causal connection between the uncompromising position taken by the respondent and the parties' lack of success in bargaining. In addition, there is no particular threshold test of the applicant's conduct which must be met before relief will be granted.

The majority also held that the dismissal of an earlier s.15 complaint did not prevent it from finding that the conditions of s.40a had been met. Section 40a expressly contemplates that its criteria may be met in the absence of bad faith bargaining by the words "irrespective of whether section 15 had been contravened". In particular, the provisions of s.40a(2)(b) are not necessarily

predicated on any grievous conduct on the part of the employer. There is no requirement of bad faith or anti-union animus (although this may be relevant) and a s.40a direction to settle a first contract by arbitration is not a penalty visited upon an employer. Rather, s.40a as a whole represents the identification of a series of situations in which the Legislature has determined that a malfunctioning labour relationship requires a special mechanism to repair or strengthen it. The Board, in this case, directed the settlement of a first collective agreement by arbitration. *Formula Plastics Inc.*, [1987] OLRB Rep. May 702.

Where collective agreement expires before business sold, employees have no right to employment after business re-opens

In this case, a tavern was sold by the original owner to a company (the first owner) which then leased the business to two individuals in trust for a corporation to be incorporated (the respondent). Both of the transactions were held to be a sale of a business. At the time of the first sale, the tavern was closed for renovations and the employees became unemployed. When the tavern re-opened approximately two and one half months later, they were not offered employment. The employees were members of the complainant, which was a party to a collective agreement with the original owner. That agreement terminated by the time the second sale occurred. The complainant alleged that the respondent had breached s.66 and other sections of the Act by "refusing to employ members of the Union". The majority examined the consequences of a sale of a business under s.63. It determined that since no collective agreement was in operation at the time of the second sale, s.63(3) controlled the outcome. Section 63(3) preserves only the trade union's right to act as exclusive bargaining agent for persons employed by the successor in "the like bargaining unit in that business". It does not preserve the right to employment of individuals. The majority then turned to the complainant's allegation that the respondent had breached s.66(a) of the Act which states, in part, that no employer shall "refuse to employ or to continue to employ" a person because the person was or is a member of a trade union or was or is exercising any other rights under the Act. As the majority found that the grievors were not entitled to employment, the threshold question was not whether the respondent had refused to continue an employment relationship but whether it had refused to enter into one. There can be no refusal to enter into an employment relationship unless a grievor has applied for employment. The grievors did not formally apply to the respondent for employment until a number of months after the second sale. However, the complainant alleged that the requisite applications could be found in conversations before written applications were submitted. The Board rejected these arguments. When the grievors did submit written applications, none were offered employment. However, as there was no evidence that the respondent was considering hiring anyone at that time, nor that any other person was hired thereafter, even if s.66(a) had been breached, there was no evidence of loss. The majority declined to order that the Act had been violated or that a notice be posted regarding employee rights. Assuming such an order could be made, it was held that no useful purpose would be served in making the declaration because the employer could not be expected to engage in any future employment because it had gone bankrupt. *New Holiday Tavern*, [1987] OLRB Rep. May 753.

Voter eligibility rules in construction industry clarified

This case involved an application under s.57(2) of the Act to terminate the respondent union's right to represent a bargaining unit in the industrial, commercial and institutional (ICI) sector of the construction industry. The applicant employee was the sole member of the bargaining unit on the date the vote was ordered and the date the vote was held. The respondent argued that the applicant was not entitled to vote because it had not been established that he had been at work for the intervener employer in the ICI sector of the construction industry at the times material to

voting eligibility. The respondent suggested that the material times include not only the date the vote is ordered and the date the vote is taken, but the period of time between those dates as well.

The Board contrasted the rules of voter eligibility in the construction industry with those in non-construction employment, and held that so long as employment in the voting constituency is not terminated, in neither case does the Board require an individual to be at work for any minimum period of time, or at all, during the period between the two material dates in order to be eligible to vote. In order to ensure that the employees in a bargaining unit have an opportunity to participate in a representation vote, the Board has formulated different approaches in construction industry and non-construction industry employment. In non-construction matters, a person need not be "at work in" the voting constituency at any time so long as s/he is "employed in" it. In construction matters, the same eligibility terminology has been made equivalent to "at work in" so that a person must be at work in the voting constituency on both the date of the Board decision ordering the vote (or the terminal date in the case of a pre-hearing vote) and on the day the vote is taken in order to be eligible to vote. The Board held the applicant was entitled to vote. *City Plumbing (Kitchener) Limited*, [1987] OLRB Rep. June 810.

Preparation of mail to be sent through Canada Post within provincial jurisdiction

In this application for certification, the respondent employer argued that the labour relations of its employees fell within federal jurisdiction. The respondent was in the business of preparing its customers' materials for mailing in accordance with Canada Post requirements. The customers' material was picked up at Canada customs, processed, sorted into bags obtained from Canada Post, and labelled in accordance with Canada Post requirements. These were then placed in containers obtained from Canada Post, which were also labelled in accordance with Canada Post requirements. Canada Post trucks picked up these containers at the respondent's premises at a loading dock built to Canada Post's specifications.

The Board found that the respondent was a user of Canada Post's services, not a performer of those services. The respondent was functionally interposed between Canada Post's postal services and its customers and was, in effect, a mail service broker. The Board found that the relationship between Canada Post and the respondent was analogous to that between a federally regulated carrier and a freight forwarder who solicits freight from customers and arranges with the carrier for the delivery of freight in volume. This was held to be within provincial jurisdiction. After reviewing the merits of the application, a certificate was issued to the applicant. *MIS (Canada) Holdings Ltd.*, [1987] OLRB Rep. June 865.

Bargaining unit restricted to single client in non-vending food industry

In this case the applicant applied for certification regarding the respondent's operations in Chatham, Ontario. The respondent was engaged in the non-vending food service industry. The applicant argued that the appropriate bargaining unit should consist of all employees of the respondent in the municipality, while the respondent asserted that the bargaining unit should be restricted to the address or name of the respondent's client in Chatham. The Board found that there has developed in the Ontario non-vending food service industry a widespread practice of parties agreeing to bargaining units which are confined to an employer's operations in respect of a particular client. The only instance brought to the attention of the Board where a municipal-wide bargaining unit was granted was *T.R.S. Food Services Limited*, [1980] OLRB Rep. Apr. 542. In that case, the majority concluded that where the employer has but one location in a municipality, the geographic scope of the bargaining unit should be defined by reference to the municipality in which the employer is located. However, they also noted that in circumstances where an employer has two or more locations in a municipality, additional considerations relating to the actual

community of interest shared between particular locations may become relevant. Although the respondent in the instant case did not have two (or more) locations in Chatham at the time of the application, it had signed a second contract a month before the application. After reviewing the facts of the case, the majority found that the employees at the two locations in Chatham did not share a sufficient community of interest to warrant their inclusion in a single bargaining unit. Although some of the work at the two locations was similar and required the exercise of similar skills, a number of conditions of employment differed and there was no functional interdependence between the two locations. The Board held that the bargaining unit be defined in terms of the name of the client of the respondent in Chatham. *VS Services Ltd.*, [1987] OLRB Rep. June 931.

Board decision concerning status of union local held to be an *in rem* decision

The General Contractors' Division of the Construction Association of Thunder Bay made an application under section 135(2a) of the *Labour Relations Act* for a declaration that the collective agreement between the applicant and Local 2693 of the United Brotherhood of Carpenters and Joiners was unlawful and, being an agreement other than a provincial agreement, was contrary to section 146(1) of the Act and hence was not binding upon the applicant or any of its members. The applicant argued that the decision of the Board in *EKT Industries Inc.*, [1987] OLRB Rep. Mar. 352, that Local 2693 was an affiliated bargaining agent within the meaning of section 137(1)(a) of the Act and that Local 2693 could not lawfully represent construction labourers in the industrial, commercial and institutional sector of the construction industry, was a decision *in rem*.

The Board considered the doctrine of *res judicata*, stating that *in rem* is more correctly described as a component of *res judicata* than as a doctrine in its own right. This means that all other elements of *res judicata* must pertain; *in rem* applies only if the parties are not identical to the parties in the previous proceeding and the decision can be characterized as an *in rem* decision. *In rem* can be summarized as follows: (1) It is a component of *res judicata*. This means that all of the other constituent elements of *res judicata* must pertain. (2) An *in rem* decision is a declaration, definition or determination of the status or jural relation of a person or thing to the world generally. (3) While it is not entirely clear whether the grounds upon which a decision is based are *in rem* or *in personam*, the better view is that the grounds are *in rem*. There was no suggestion that Local 2693 had in any way changed since the facts referred to in the *EKT* decision or that Local 2693 had any evidence or argument to present to the Board which it had not presented to the Board in connection with that decision. Therefore, having regard to the analysis of the principle of *res judicata* and the component of *res judicata* known as *in rem*, the Board found that the *EKT* decision was a decision *in rem*.

Having regard to the foregoing and pursuant to the provisions of section 135(2a) of the Act, the Board declared that the collective agreement between the General Contractors' Division of the Construction Association of Thunder Bay and the Lumber and Sawmill Workers' Union, Local 2693 was contrary to subsection 146(1) of the *Labour Relations Act* and, accordingly, was null and void and of no force and effect and was not binding upon the General Contractors' Division of the Construction Association of Thunder Bay or any of its members. *Construction Association of Thunder Bay Inc.*, [1987] OLRB Rep. July 976.

Implementation of pension plan over the objections of the employees who would be covered by the plan not a breach of the union's duty of fair representation

An employee brought a complaint in which it was alleged that the respondent union had breached its duty of fair representation by implementing a pension plan over the objections of most of the employees who would be covered by the plan.

The Board held that the trade union as the legal bargaining agent of the employees has a status quite different from that of an agent in a commercial context. In particular it is not required to implement the views of the majority of employees as though they were its principals. The prohibition against arbitrary conduct in section 68, the duty of fair representation, requires that a union take into account the views of employees. Once that is done, however, the union is entitled, in light of other relevant considerations, to adopt a course of action other than that favoured by most employees. Although the complainant in this case could possibly have obtained a higher personal return on money now being contributed to the pension fund, other employees closer to retirement and younger employees, who would not in fact invest the money for their retirement years if they had immediate access to it, would benefit from the establishment of a plan. Given these considerations it was reasonable for the respondent to conclude that the long run interests of bargaining unit employees as a whole would benefit from the introduction of a pension plan, and that one should be implemented even over the objections of the employees themselves. The decision was not prompted by bad faith or discriminatory intent or made in an arbitrary fashion and accordingly no breach of section 68 had been made out. *John Daniell*, [1987] OLRB Rep. July 990.

Employer cannot rely on the obstensible authority of negotiating committee where employer knows that union is unwilling to sign collective agreement

The Ontario Nurses' Association (O.N.A.) filed a complaint against Oakridge Villa Nursing Home alleging violations of sections 15 and 79, the duty to bargain in good faith and the freeze provisions, of the *Labour Relations Act* and section 13 of the *Hospital Labour Disputes Arbitration Act*. The employer in turn alleged that O.N.A. had violated sections 15 and 70 of the *Labour Relations Act*. In addition, there was a referral by the Minister pursuant to section 107 of the *Labour Relations Act* about the Minister's authority to appoint a conciliation officer in this case.

It had always been O.N.A.'s practice that collective agreements entered into bore the signature of a centrally employed employment relations officer. In this particular case negotiations broke down on the question of parity. One of O.N.A.'s traditional bargaining objectives had been parity for nurses in nursing homes with wages received by nurses in hospitals. O.N.A. had consistently refused to enter into a collective agreement if parity could not be achieved, preferring to allow the matter to go to interest arbitration. In the two previous rounds of bargaining at Oakridge, the refusal to grant parity had resulted in arbitration, a process which had in each case resulted in long delayed awards and no parity. The local bargaining unit members of the negotiating committee were anxious to accept the employer's wage proposals rather than await the outcome of an interest arbitration. The O.N.A. employment relations officer had remained adamant that she had no mandate to accept anything less than parity. The local bargaining unit members then met with the employer, without the O.N.A. employment relations office, and signed the agreement notwithstanding the employer's bargaining experience with O.N.A., which ought to have alerted it, at the very least, to being wary of accepting the bargaining unit members' assertions of authority to bargain. When the O.N.A. employment relations officer had been notified of the signing of a memorandum of settlement with the employer, she wrote the employer advising him that failure to bargain with the association was contrary to the *Labour Relations Act* and that any agreement signed in the absence of a representative of the association was invalid. Despite this letter, the employer signed an alleged collective agreement at a later date.

The Board held that given the employer's experience with and knowledge of O.N.A.'s negotiating practices, particularly in light of the letter from the O.N.A. employment relations officer, Oakridge could not rely on the obstensible authority of the bargaining unit members of O.N.A.'s negotiating committee. In the absence of O.N.A.'s signature through its employment relations officer, O.N.A. was not a party to the agreement and therefore, no collective agreement existed between the parties. What had been signed was a document executed by the employer,

which had legal authority to sign, and the local negotiating committee which, according to O.N.A.'s constitution, did not. The document was therefore null and void as a collective agreement and not binding on O.N.A. The employer was held to have bargained in bad faith in signing the document given its past experience with O.N.A., since it ought to have known that it was circumventing the union in signing with the bargaining unit members. On the other hand, O.N.A. was not held to have violated the duty to bargain in good faith for refusing to acknowledge as legal and binding a collective agreement it rightly perceived to be void and contrary to its own constitution. In addition a breach of the freeze provisions was found to have occurred given the employer's implementation of terms and conditions the union had not agreed to and given the Board's finding that there was no valid collective agreement. Finally, the Board found that since there was no collective agreement between the parties, the Minister had the authority to appoint a conciliation officer. *Oakridge Villa Nursing Home*, [1987] OLRB Rep. July 1026.

Lock-out pay provided to employees by the union a compensable loss

In a decision dated December 19, 1986 the Board held that the respondent company had contravened sections 15, 64, 66, 70, and 79 of the *Labour Relations Act* and section 24(1) of the *Occupational Health and Safety Act*. Counsel for the complainant wrote to the Board to request that the complaints be relisted for hearing to resolve outstanding questions regarding damages payable by the respondent.

The complainant asked for compensation with respect to, *inter alia*, the remuneration paid to the president of the local and an international organizer who attended the negotiation sessions with the respondent, and the Board hearings that eventually ended in an arbitrated first collective agreement. The position of the complainant was that those salary expenses were union losses resulting from the respondent's unlawful acts and omissions. The Board held that salaries paid to union officials and costs incurred in assembling materials for use in proceedings before the Board were analogous to legal fees which the Board had consistently refused to award. Negotiating costs, on the other hand, could be compensable in certain circumstances. In this instance the Board awarded the complainant compensation for half of the reasonable negotiating expenses incurred in respect of collective bargaining with the employer, including half of the salaries paid to the three union officials who spent time at the bargaining sessions. Some time was wasted in dealing with proposals for which the respondent had no plausible business justification. However other time was wasted due to the tardiness, non-availability, or lack of preparedness of union representatives.

In respect of printing costs and other expenses associated with a public campaign during the lock-out, the Board distinguished the decision in *Gray-Owen Sound Health Unit*, [1980] OLRB Rep. Feb. 223 in which the expenses incurred by the Ontario Nurses' Association during a lock-out were deemed too remote to be compensable, as they were more related to the union's desire to maintain a favourable image than an attempt to keep the bargaining unit together in the face of employer unfair practices. In this case the Board found that the expenses incurred were intended to keep the unit together in face of the respondent's unfair labour practices, and to mitigate losses by attempting to bring the unlawful lock-out to a swift conclusion. For those reasons the Board was satisfied that the union was entitled to be reimbursed by the respondent for reasonable costs incurred in producing materials such as stickers, leaflets, letterhead, labels, and buttons regarding the lock-out and the boycott campaign mounted by the union.

With respect to the duty of locked-out employees to mitigate their damages, the Board held that by mid-August the continued lack of progress in negotiations in the context of a lock-out which had continued for over three months would have rendered it unreasonable for an employee to continue to refrain from seeking alternate employment on the basis that the lock-out would likely come to an end in the near future. The duty to mitigate would not require a worker to seek

permanent employment elsewhere or to seek alternate employment which would preclude him from picketing the respondent's premises. Any earnings received by employees from other employers during the lock-out would have to be deducted from the sum which they would otherwise have received from the respondent. Extra income earned by an employee's spouse during the lock-out would not be taken into account as it was too remote to be legitimately considered.

The union also sought compensation from the respondent for the lock-out pay which was provided to employees during the unlawful lock-out. The Board held that where lock-out benefits are not paid as compensation for picketing, the lock-out pay is *not* deductible from the amount payable by the respondent to its employees for wage losses suffered during an unlawful lock-out. The Board cited a substantial body of American jurisprudence which supported that conclusion.

Other issues, including damages for loss of opportunity to negotiate a collective agreement and interest rate calculation for complaints filed in different months, were also discussed in the decision. *Burlington Northern Air Freight (Canada) Ltd.*, [1987] OLRB Rep. August 1064.

Board having jurisdiction to award damages for mental distress

The union in this case lodged a section 89 complaint alleging that the grievor had been dealt with by the respondent employer contrary to sections 3, 64, 66, 79(1) and 89(7) of the *Labour Relations Act*. The employer's actions had culminated in the discharge of the grievor. The Board having found unfair labour practice violations awarded the grievor compensation for lost wages. In addition the union asked for general damages for the protracted pattern of threats and harassment to which the grievor had been deliberately subjected. The Board was asked to take into account and remedy the dislocation, inconvenience, and emotional stress associated with the grievor's unlawful treatment. The Board stated that there is some precedent— albeit in other contexts and other forms—for compensation beyond an immediate loss of wages or other economic benefits. The Board went on to state that there is nothing in the statute which would foreclose monetary compensation for these independent breaches of the Act, and that the Board saw no reason to "read in" such a limitation. Nor did the Board see any reason why the Board should be less sensitive than the courts or other tribunals to the possibility that illegal conduct may give rise to a form of general damages. This is not to say that the Board should award compensation in the form of "general damages" simply because it is affronted by the egregious nature of the employer's conduct or the "shocking high-handed and arrogant fashion" in which a particular complainant may have been treated. "Punishment" has no place in assessing compensation under section 89 of the *Labour Relations Act*. However, in this case, because the claim for general damages surfaced only at the hearing convened to calculate the quantum of compensation payable to the grievor, the Board declined to in effect amend its original remedial direction to include a novel general damages claim under the rubric of "implementing" a compensation direction which did not specifically contemplate that kind of claim. *Jacmorr Manufacturing Limited*, [1987] OLRB Rep. Aug. 1086.

Where there has been a history of fragmentation the Board may consider a departmental unit to be appropriate

The union in this case had applied for a bargaining unit comprised of the computer information services department of a newspaper. The respondent publishes a daily newspaper in the Ottawa area, and there were, at the time of application, seven different collective agreements covering employees in various departments of the Citizen. In this application the Guild sought to represent a bargaining unit of employees in one of the few departments remaining unorganized at the Citizen. The Board held that where there has been a prior history of fragmentation (and no

demonstrable serious labour relations problems flowing from that fragmentation) the Board might well be prepared to find appropriate a departmental bargaining unit. The Board went on to hold that a sufficient and strong community of interest existed among the employees in the computer information services department such that a bargaining unit comprised of those employees would be viable for collective bargaining purposes. Next the Board went on to consider whether serious labour relations difficulties would attend a finding that the unit applied for was appropriate. There was no evidence that the Citizen had suffered labour relations difficulties in dealing with its existing bargaining structure for a period of over thirty years. There was no evidence that any labour relations difficulties, serious or minor, had resulted from this fragmented structure. There was nothing to suggest that further fragmentation, by the creation of eight bargaining units instead of the existing seven, would in any way engender serious labour relations difficulties. Finally the Board considered whether the organizing had reached such a stage at the Citizen that a tag end unit was necessary. Given the long history of departmental, multi-unit bargaining, and the remaining categories of unorganized employees, the Board was not disposed to find that a tag end unit was appropriate. *The Ottawa Citizen*, [1987] OLRB Rep. Aug. 1098.

Access section not intended to apply only to geographically remote work sites

This case concerned two applications under section 11 of the *Labour Relations Act* for directions allowing the applicant access to the respondent's property for the purpose of attempting to persuade employees to join a union. The respondent in both cases was in the forest products business and operated eight bush camps in Northern Ontario. The respondent argued that an access direction should not be issued unless the work sites involved were remote or isolated and the applicants could demonstrate that there were no other reasonable means of access to employees, or, in the alternative, that the applicants had exhausted such other reasonable means. In addition, it took the position that the Board must be particularly alert to the difficulties involved where access is requested to employees already represented by a bargaining agent, and that the test for access in these circumstances should be more stringent. Stating that section 11 must be read on the context of a legal and labour relations environment where access is crucial to the scheme of collective bargaining, and where expedition is essential if the section is to have any real value, the Board held that an interpretive approach to section 11 which produced protracted litigation was likely to render the provision meaningless. A construction of section 11 in which the Board must examine whether there are other reasonable means of access and/or whether such means have been exhausted is likely to have that affect. The Board went on to state that were it to accept the position argued by the respondent, it would be difficult to avoid hearing evidence and engaging in what amounted to an evaluation of the efficiency and competence of the union's effort to organize. Stating that such a problem would be frought with difficulties and unlikely to be particularly useful, the Board stated that the respondent's interpretation was likely to produce a great deal of time-consuming and unhelpful evidence and create such delay that the purpose of the section might well defeated.

The Board went on to deal with the argument that section 11 was intended to apply only to geographically remote work sites. The Board rejected the argument, stating that the syntax in section 11, its purpose and the labour relations environment in which it must be applied, indicated that the only criteria which must be met are those set out in the section itself. The Board refused to import the B.C. Board limitation that only resident employees which do not have the same opportunity for exposure to the union as non-resident employees should be subject to an access order.

The Board also dealt with the argument that the criteria for access orders should be more stringent where employees are already represented. The Board held that the argument implied that freedom to choose a particular union was of less value under the *Labour Relations Act* than the right to join a union at all. The Board stated that it did not find this proposition supportable. In

so holding the Board cited the statement in *Domtar Inc.*, [1987] OLRB Rep. Apr. 485, that "there is nothing on the face of section 11 which suggests that it should not apply for 'raids', in which one union is seeking to displace another".

The Board concluded that the only criteria that an applicant has to meet are those set out in the Act, that is that employees must reside on property owned by or to which access is controlled by the employer, an interpretation which the Board found consistent with both the wording and purpose of the provision. However, the Board rejected the argument that access orders are automatically and inevitably forthcoming once those criteria are met. The section is not mandatory and the Board retains the discretion to deal with the unusual case where access might be inappropriate. *Great Lakes Forest Products Ltd.*, [1987] OLRB Rep. Sept. 1136.

Union requesting copy of the mailing list supplied by the employer to the Board for occasional teacher pre-hearing vote

The Board directed that a pre-hearing representation vote be conducted and that the Board's notice of the vote be given by mail to the persons whom the parties had identified as eligible voters. In order to facilitate the Board giving notice in that manner, it was further directed that the respondent supply the Board with mailing labels containing the names and addresses known to the respondent of all the persons on the voters list. In the *Board of Education for the City of York*, [1985] OLRB Rep. May 767, the Board addressed the question of whether an applicant for certification with respect to a unit of occasional teachers should have access to the information supplied to the Board. The Board held in *City of York Board of Education*, *supra*, that in occasional teacher cases, all interested parties will have access to mailing lists supplied to the Board by respondents. That rule applies to each such case unless the Board specifically directs otherwise. Any requests that the Board specifically direct the applicant *not* be given access to the mailing list must be raised at the meeting with the Labour Relations Officer held in connection with the application in question. As no such request was made at the meeting in either of these applications, the general rule applied to each of them. The Board added that when a similar request is made in any other occasional teacher application in which mailing lists have been supplied to the Board, the request may be honoured by the Registrar without reference to the Board unless the Board has otherwise expressly directed with respect to that particular application. *The Lakehead District Roman Catholic Separate School Board*, [1987] OLRB Rep. Sept. 1154.

Compensation rather than reinstatement appropriate remedy for unlawfully laid-off employees

The president of the respondent company in this case had removed certain licenses from a particular fishing boat, denied the employees working on that boat an opportunity to fish under a third license, laid-off the grievors at the height of the fishing season, and failed to pay the captain his bonus. The Board held that these actions constituted violations of sections 79(2), 66, and 70 of the Act. The Board in refusing to order the company to resume its fishery operations and reinstate the grievors, cited with approval *Academy of Medicine*, [1977] OLRB Rep. Dec. 783, which stated that "a mandatory order compelling an employer to operate a service which it does not wish to operate, albeit for a prohibited reason, would give rise to obvious difficulties of enforcement—difficulties which, in the long run, could only serve to weaken the efficacy of the Board's remedial orders". Additional considerations were the fact that the company had been unprofitable since its inception and would have to go even further into debt in order to obtain "start up" funds. The boat concerned had been put up for sale and might be sold by the time the decision issued. Moreover the company did not own any fishing licenses and may not have been able to "rent" any with unused quotas with respect to the 1987 fishing season at that point in time, with most of the 1987 fishing season past. Having regard to all these circumstances as well as to the practical considerations described in the *Academy of Medicine* case, the Board concluded that an

order directing the company to reinstate the grievors would be inappropriate. A compensation order, on the other hand, was clearly warranted. However, since the evidence was far from certain that the boat would have fished during the 1987 fishing season, compensation was limited to the 1986 fishing season. The Board further found that the president of the corporate respondent had personally contravened sections 66 and 70 of the Act. Under those circumstances, it was appropriate to make an order against both the company and the president personally. *Peralta Foods*, [1987] OLRB Rep. Sept. 1162.

Union entitled to names, addresses, telephone number and hourly rates of employees in bargaining unit

The trade union applied under section 40a of the Act for a direction that a first collective agreement between it and the respondent employer be settled by arbitration. The union had earlier been certified under section 8 and two discharged employees had been ordered reinstated. During negotiations the employer refused to provide the union, when requested, with the names, addresses, telephone numbers and hourly rates of the employees in the unit, refused a union security clause, and failed to communicate properly with its representative at the bargaining table.

The Board held that the process of collective bargaining between the parties had been unsuccessful for the reasons set out in subparagraphs (a), (b) and (c) of subsection 40a(2) and, accordingly, directed the settlement of their first collective agreement by arbitration. The Board stated that information about how bargaining unit employees can be contacted is information to which the union is *prima facie* entitled. Refusal to provide the information amounted to a failure to make reasonable efforts to conclude a collective agreement. As well, the employer's approach to the union's proposals about union security reflected either adoption by the respondent of uncompromising bargaining positions without reasonable justification or failure of the employer to make reasonable or expeditious efforts to conclude a collective agreement. The employer had resisted a union security clause for more than 15 months with no plausible explanation for its position. Finally, the failure of communication between the respondent's representatives at the bargaining table and the decision-maker who was not at the table constituted a failure to make reasonable efforts to conclude a collective agreement. *Co-Fo Concrete Forming Construction Limited*, [1987] OLRB Rep. Oct. 1213.

Party not allowed to repudiate settlement because no legal counsel present

This was an unfair labour practice complaint in which the complainant alleged that she had been dealt with by the respondents contrary to the provisions of sections 68, 70, and 80 of the Act. The settlement efforts of a labour relations officer resulted in the signing of minutes of settlement by the complainant and the union local. Among other provisions, the union agreed to pay the complainant the sum of $2500.00. In return the complainant was required to withdraw her unfair labour practice complaint and to agree not to take or initiate any further actions. The complainant cashed her cheque from the union but later refused to withdraw her complaint. The complainant argued that she was not bound by the written settlement because she was not represented by counsel at that time, and because the counsel whom she subsequently retained was of the opinion that the consequences of the respondent trade union's contravention of section 68 of the Act were not adequately reflected in the amount of the settlement. In finding the minutes of settlement to be binding, the Board noted that section 10 of the *Statutory Powers Procedure Act* permits but does not require representation by counsel. The Board also referred to section 89(7) of the *Labour Relations Act* which states that where the matter complained of in a section 89 complaint has been settled, the settlement is binding on the parties to the settlement document. The Board pointed out that the orderly resolution of its proceedings and the efficacy of the settlement process would be gravely prejudiced if, having signed minutes of settlement, a party could afterwards repudiate the

settlement because it fell short of what a legal adviser subsequently retained by that party felt to be achievable through the complaint. For these reasons, the complaint was withdrawn by the Board in accordance with the provisions of the minutes of settlement. *The Lambton County Board of Education*, [1987] OLRB Rep. Oct. 1277.

Non-party union may not intervene in section 124 proceeding where underlying cause of grievance is a work assignment dispute

In this application, the issue was whether the Board should decide in a proceeding under section 124, the correctness of a work assignment to members of a trade union other than the trade union which is one of the parties to the grievance, when it is alleged the assignment has been made pursuant to a collective agreement other than the one under which the grievance arose. The Board dealt as well with the related question of whether the other trade union should be made a party to the referral for the limited purpose of deciding the correctness of the assignment.

Copper Cliff, the employer, was bound to the provincial agreements for both the Millwrights and the Ironworkers. The Millwrights grieved under its collective agreement because the employer had referred work to the Ironworkers which the Millwrights asserted jurisdiction over pursuant to its collective agreement. Both agreements contained a term which make the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry ("the Plan") the tribunal for resolving work assignment disputes. However, the Millwrights and the Ironworkers both submitted that the Board should decide whether the work should have been assigned under the Millwrights agreement or the Ironworkers agreement in the section 124 proceeding. They relied on the unreported Board decision in *Lackie Industrial Contractors Limited*, issued August 26, 1985. On similar facts, the Board in that case allowed the non-grieving union to intervene for the limited purpose of arguing its claim that the section 124 grievance was rooted in a work assignment dispute. Counsel for both unions viewed the decision as saying that in the event that a work assignment dispute is not adjudicated either by the Board under section 91 of the Act or by another tribunal, the Board would hear and decide in a section 124 proceeding whether the union whose members were assigned the work had a valid claim to the work under its collective agreement. While Copper Cliff had made an application to the Plan, solicitors for the Millwrights later advised the Board that the dispute would not be adjudicated because the work in question had been completed. They further submitted that the only forum remaining for seeking adjudication of the issues raised by the grievance was the Board.

However, the Board was not satisfied on several grounds that it should engage into any inquiry under the section 124 proceeding which would require that the Ironworkers be made a party to the proceeding. This would be the case even if the Board had the consent of the employer, the Millwrights, and the Ironworkers. First, even if *Lackie* did contemplate the intervention of the non-grieving union, the Board was not convinced that this approach would resolve either the grievance or the work assignment dispute. If the Ironworkers agreement did contain language requiring the employer to assign work to members of the Ironworkers, that would not be a complete defence to the Millwrights grievance because this would not preclude the possibility that the employer had the same obligation with respect to members of the Millwrights under the Millwrights agreement.

The Board then turned to the second ground for refusal. As the Millwrights and Ironworkers both had terms in their provincial agreements which made the Plan the tribunal for resolving work assignments instead of the Board under section 91, section 91(14) protects that arrangement from incursion by the Board under section 91. The parties, having created the circumstances which may have frustrated having their work assignment dispute adjudicated by either the Plan, the tribunal selected in their collective agreements, or under section 91 of the Act, asked the Board to accom-

modate them by adapting a procedure intended to deal with disputes between two parties of opposing interests under a collective agreement. The adaptation would require making a party to those same proceedings a third party who is a stranger to the agreement in question and who would usually be allied in interest with one of the parties to the grievance. The Board found no reason to compromise another proceeding under the Act in order to alleviate a problem which the parties had created for themselves.

The third ground for declining to use the section 124 proceeding for the purpose of adjudicating the work assignment dispute was that the Board would be unnecessarily and unreasonably encumbering the proceeding with parties who were strangers to the collective agreement under which the arbitration was taking place. Furthermore, the rules of natural justice would require that the Board serve notice of the proceeding on the parties to the provincial Ironworkers agreement. There would be potential for as many as three parties who were strangers to the collective agreement under which the proceeding arose being made parties to it.

The Board's final ground for declining to adjudicate the work assignment dispute was that it was possible for a respondent to a section 124 proceeding to obtain a similar result without adding parties who are strangers to the collective agreement. Nothing prevented a party to a collective agreement from adducing evidence of other bargaining relationships.

The Board did not make the Ironworkers a party to the section 124 proceeding. *Copper Cliff Mechanical Contractors Ltd.*, [1987] OLRB Rep. Nov. 1357.

Owner-operators of taxis eligible for collective bargaining but placed in separate dependent contractor unit

In this application for certification, the union asserted that taxi "owner-operators" working "under the banner" of Hamilton Yellow Cab Company Limited were either employees or dependent contractors of Yellow. Yellow asserted that the owner-operators were independent contractors. The union further argued that Yellow and a number of other named respondents should all be declared to be related employers pursuant to s.1(4) of the Act. It was alleged that the respondents were totally integrated with, and substantially controlled by, Yellow.

After reviewing the relationship between Yellow and the owner-operators, the Board concluded that Yellow monitored, evaluated, and closely regulated the manner in which drivers/operators work, and initiated disciplinary or corrective measures which resemble those that would be applied to employees. Such authority was exercised on a regular and quite specific basis. The alleged "independence" of the owner-operators was largely illusory; they were fully integrated into the Yellow system and subject to its direct control. The Board found that the owner-operators could be properly characterized as dependent contractors of Yellow and thus "employees" for statutory purposes who are eligible for collective bargaining.

However, the Board held that separate bargaining units should be created for the dependent contractors and the helper-drivers. Helper-drivers are those individuals who may drive an owner-operator's cab during the owner's off hours. Section 6(5) of the Act states that dependent contractors may be included in a bargaining unit with other employees if the Board is satisfied with a majority of such dependent contractors wish to be included in the bargaining unit. The section gives the Board a discretion to fashion a "mixed unit", and it was held that the structure of section 6 requires "wishes" to be expressed in some positive way—not by silence, negative implication, or non-involvement. In this case, there was nothing on the face of the documentary or other evidence to suggest that the dependent contractors had expressed a wish to be included in a mixed bargaining unit with other employees. There was also some evidence that the fill-in drivers may

have had a different community of collective bargaining interests from the full-time owner-operators.

The Board went on to consider whether the named respondents were "related employers". On the basis of evidence presented at the hearing, it was held that Yellow and one of the respondents, Transportation Unlimited Inc., were related employers. However, there was virtually no evidence with respect to the other named respondents and the Board found no reason to include them in a related employer declaration. *Hamilton Yellow Cab Company Limited*, [1987] OLRB Rep. Nov. 1373.

First contract arbitration not directed as employer had reasonable justification for its position

This was an application to the Board under section 40a of the Act for a direction that a first contract be settled by arbitration. The applicant Federation argued that by not agreeing to meet more frequently, and by not providing its negotiation team with a proper mandate to negotiate, the respondent failed to make reasonable or expeditious efforts to conclude a collective agreement. The applicant also contended that the respondent adopted, without reasonable justification, an uncompromising bargaining position in respect of management rights, seniority, layoffs and related issues.

The Board reviewed in detail the series of dealings between the parties which culminated in the bringing of this application. After finding the process of collective bargaining to have been unsuccessful, the Board went on to consider whether or not that lack of success had been caused by one or more of the conditions or circumstances listed in subsections (a) to (d) of section 40a(2). The applicant confined its case to subsections (b) and (c) of that section. The Board held that section 40a(2)(c) did not provide a basis for a first contract arbitration direction in this instance. The Board was satisfied on the totality of the evidence that the original difficulties in scheduling bargaining sessions improved as the pace of bargaining accelerated. It was also held that the College in fact granted its negotiation team an adequate mandate to negotiate. Having decided that section 40a(2)(c) failed to provide a basis for a first contract direction, the Board turned to examine section 40a(2)(b). The applicant referred to the decision of *Formula Plastics*, [1987] OLRB Rep. May 702 when arguing that the respondent had adopted, without reasonable justification, an uncompromising bargaining position with respect to management rights, seniority, layoffs and related issues. The Board held that for the purposes of its decision, it was necessary to conclusively determine whether or not the respondent had adopted an uncompromising position with respect to any or all of these matters as it was satisfied that the respondent had reasonable justification for its bargaining position regarding each. The application was therefore dismissed. *Alma College*, [1987] OLRB Rep. Dec. 1453.

Representation vote ordered as a result of an application by one bargaining unit member on behalf of three bargaining units

This case involved an application for termination of bargaining rights made pursuant to section 57 of the Act. The respondent union raised two arguments as to why the Board should refuse to consider the applicant's petition. The union argued that the application should be rejected because the anti-union petition circulated amongst the unit members identified the union in general terms only and failed to specifically outline to which of the two locals and to which of the three bargaining units each signatory belonged. The Board rejected this argument as the evidence showed the majority of the employees of all three units to want to be rid of the union in any of its local manifestations.

The union went on to argue that the individual employee applicant, as a member of but one bargaining unit, could not be an "applicant" seeking termination of bargaining rights in respect of the other two bargaining units. A review of the Board's jurisprudence revealed there to be situations in which an employee was forbidden from making an application to terminate the bargaining rights of a unit of which the applicant was not a member. However, these cases were distinguished on the grounds that not one involved the documentary or other evidence before the Board in this instance. A majority of the employees in each unit wished to terminate the respondent's bargaining rights and designated one employee applicant to take such steps as were necessary to accomplish that objective. The applicant submitted an application along with the anti-union petition on his own behalf as well as on behalf of the employees of the other bargaining units. The Board ordered a representation vote. *Huntsville IGA*, [1987] OLRB Rep. Dec. 1517.

Board declining to order pre-hearing representation vote

This case involved an application for certification in which the applicant requested that a pre-hearing representation vote be conducted. The applicant had not previously been found to be a trade union within the meaning of clause 1(1)(p) of the Act. The respondent and objectors argued that it was not a trade union. One of the uncommon characteristics of this application was that the applicant had dealt and continued to deal with the employer on its members' behalf. Those dealings resulted in certain "arrangements" or "agreements". The employer took the position that members of its management had participated in the applicant's affairs, and that the applicant therefore could not be certified, even if it was a trade union, because section 13 of the Act prohibits certification of a trade union which has received employer support.

The parties opposed to a pre-hearing representation vote argued that an objective decision could not be taken by the employees with regard to the application by the applicant to be the certified bargaining agent until it was known who was to be included in the bargaining unit. As a sizeable block of employees were being challenged as to whether they should be included or excluded, the perception of bargaining strength changed dramatically. They argued that where the challenges form such a substantial portion of the potential bargaining unit, voters must be made aware of the scope of the unit before being required to vote. Counsel for the employer also argued that the Board ought not to order a pre-hearing vote in this instance because of the inordinate amount of time, effort and expense required to conduct it.

The Board held that a pre-hearing vote would not be conducted in this application. The consideration which ultimately led to this conclusion stemmed from the existence of the "agreement" between the applicant and employer as well as the applicant's position that this agreement was a collective agreement. A prime factor causing the Board to exercise its discretion to order a vote prior to a hearing is the concern that delay in the applicant being able to exercise representational rights on behalf of the employees will cause disinterest in and loss of support for an applicant trade union. Under the then current relationship between the employer and applicant, the employer was prepared to permit the applicant to continue to exercise its representational role. The Board characterized a crucial question at issue as "if the agreement is not a collective agreement, is there any likelihood that it does not constitute employer support within the meaning of section 13 of the Act?" Not one of the parties argued with any vigour that the agreement might constitute neither a collective agreement nor employer support.

In summary, the combined effect of the applicant's position that it already had bargaining rights for the employees in question, the lack of support for or identification of circumstances in which a vote would be of any benefit in resolving the underlying issues and the very high cost of conducting such a vote led the Board to conclude that a pre-hearing vote would not be conducted in this application. *Ontario Hydro*, [1987] OLRB Rep. Dec. 1589.

Youth services officer not allowed to refuse work which he believed would put co-workers in dangerous situation

The complainant, who was a youth services officer at a secured custody facility, alleged that he had been dealt with by the respondent contrary to section 24(1) of the *Occupational Health and Safety Act*. He had been directed during his shift by his supervisor to report to work at another location at the facility. He refused because he thought he would be putting his co-workers in danger by leaving the detention unit short-staffed. Rather than leave, he elected to complete his shift and later received letters of reprimand.

The Board noted that section 24(1) of the Act prohibits an employer from responding in the ways detailed in subsections (a) to (d) because a worker has acted in compliance with the Act or the regulations. When determining whether a worker has acted in compliance, it is not sufficient that a worker believes in good faith or reasonably believes he is acting in compliance. The Board must be satisfied that a worker has, in fact, complied with the Act or the regulations and that such compliance prompted a prohibited response. Whether a worker has complied with the Act or the regulations depends on an interpretation of the relevant provisions relied upon and the facts in each case. Section 24 also prohibits an employer or a person acting on behalf of an employer from responding in the ways detailed in subsections (a) to (d) because the worker has sought enforcement of the Act or regulations. The Board was satisfied that the employer did not act towards the complainant as it did because the complainant sought such enforcement or because he complied with section 17(1)(d). Citing *Baltimore Aircoil of Canada*, [1982] OLRB Rep. March 327 the Board held that the only right in the *Occupational Health and Safety Act* to refuse work is contained in section 23 of the Act. Section 23(1)(c) specifically provides that persons who work at such institutions do not have the right to refuse work which might endanger their health and safety or that of their fellow workers. A worker cannot refuse work on the basis that some other provision of the Act creates a right to disobey the employer. Section 17(2)(b) places an obligation on a worker not to use or operate equipment, etc., and not to work in a manner that may endanger himself or any other worker insofar as a worker's conduct in these respects is entirely within his or her *discretion*. The section does not entitle a worker to refuse an instruction. In this case the complainant's refusal to comply with the instructions of his employer amounted to insubordination.

The Board declined to exercise its discretion to substitute a different penalty under section 24(7). Although the complainant was acting in good faith, insubordination is considered to be misconduct which warrants a significant disciplinary response. The employer's response was seen as "mild" and as "not inappropriate". *Ministry of Community and Social Services*, [1988] OLRB Rep. Jan. 50.

President and Vice-President of company personally liable for breach of Act

The complainant union alleged that the corporate respondent and two individual respondents, the corporate president and vice-president, had each violated sections 50, 64, 66 and 70 of the Act. The challenge was made in two respects. First, a series of conversations between the individual respondents and the union took place in an effort to settle upon compensation due to the grievors, as ordered previously by the Board. This was discussed along with proposals for a collective agreement. The respondents stated that if compensation was made over a certain amount, they would have to close shop or go bankrupt. Secondly, the union contended that the respondents repudiated the collective agreement in that they refused to deduct union dues and remit them to the union.

With respect to the first allegation, the Board was satisfied that the corporate respondent had breached the Act. It had demonstrated a constant and continuing unwillingness to recognize or deal with the union as bargaining agent for employees in the unit. Further, the wording of sections 64 and 66 of the Act gives the Board jurisdiction to find that an individual has breached the sections where it is so pleaded and is borne out by the facts. Whether the Board will find individuals to have breached the Act does not depend on special or exceptional circumstances. Rather, it depends only on whether the persons are alleged to have breached a particular section of the Act, and on whether the evidence establishes the breach of that section. The Board retains a discretion over the appropriate remedy to be directed against an individual. In this instance, both individuals were found to be personally liable for breach of the Act. However, no remedy was issued against any of the respondents as the complaint was not brought in an expeditious fashion. However, the corporate and individual respondents were found to have breached the Act by refusing to deduct and remit union dues. The Board ordered a further hearing to be held to determine the appropriate remedial relief. *Nepean Roof Truss Limited*, [1988] OLRB Rep. Jan. 61.

Deficient Form 9 cause for dismissal of certification application

In this certification application, the intervener C.A.W. argued that the applicant ought not to be found a "trade union". Allegations were made with respect to improprieties regarding membership evidence. It was also alleged that management involvement in the formation and operation of the union resulted in a breach of sections 13, 64, 66 and 70 of the Act. The employees at Pebra were attempting to organize. A meeting was called to determine whether they would form an independent employees association, join the C.A.W. or neither. The leadership group of four employees endorsed the employee's association option. Membership cards were handed out to those interested. Many were returned along with one dollar. Subsequently, an application for certification was filed. However, on the suggestion of counsel, the applicants withdrew this application as there were allegations levied by the C.A.W. that the membership cards were ambiguous and misleading. Another meeting of employees was called and new membership cards were issued. All employees were told that if they had already signed a card and paid a dollar, they need not pay the dollar again. The returned cards were given to two of the association officials. They would then sign the cards as collector, without regard to whether the person signing as collector had actually collected the dollar from the signing employee for their first card. A second application for certification was submitted. The President of the employee association signed the accompanying Form 9. In testimony at the certification hearing he admitted that when he signed the Form 9, he was unaware of whether the person signing as collector had actually collected the dollar with respect to the applicable card. The C.A.W. intervened, stating that no dollars were paid or exchanged upon the signing of these applications for membership. The matter was adjourned for further particulars and the applicant submitted an amended Form 9, which outlined exceptions, in an effort to explain to the Board that the collector who signed the cards was not necessarily the individual who had collected the dollar from that employee.

At issue was the adequacy of membership evidence and the reliability of the Form 9. The Board outlined four matters which appear to be required in order for a declarant to properly sign a Form 9. First, the basis of the declarant's knowledge must be personal experience or reasonable inquiries that the declarant has made. Second, the declarant must be able to declare that the collector named on the membership card actually received the payment. Third, where exceptions exist to the declaration with respect to the second aspect, the declarant must note those exceptions in the particular instance. Fourth, the declaration must not contain any statements that the declarant knew or ought to have known were material misrepresentations. The Board noted that with respect to the Form 9 before it, specific disclosures were not made. Also, the declarant failed

to make reasonable inquiries in an effort to inform himself of the circumstances of the collection of all cards. The Form 9 also materially misrepresents what had occurred. Schedule A states that "the collectors were present together when all payments were received". This was not the case.

The Board rejected the Form 9's as improper and unreliable. As the Form 9's were rejected, there was no membership evidence before the Board and accordingly the application was dismissed. A Form 9 Declaration is critical to the integrity and fairness of the certification process. Where the Board is asked to certify trade unions on the basis of hearsay membership evidence, without disclosing to the employer such evidence or allowing cross-examination on it, a high standard of integrity and reliability must be maintained. In light of the dismissal of the application, it became unnecessary to deal with the issues of "trade union" status and management support. *Pebra Peterborough Inc.*, [1988] OLRB Rep. Jan. 76.

Labour relations of duty free shop falling within provincial jurisdiction

In this certification application the Board considered whether it had constitutional jurisdiction over the labour relations of the respondent employer. The employer operated a duty free shop located on a bridge border crossing. Two grounds were forwarded by the respondent in arguing that its labour relations were under federal jurisdiction: first, the respondent itself was engaged in a federal business, work or undertaking, in that it was itself engaged in export, customs and excise, or taxing; and secondly, in the alternative, the respondent was integrally connected or related to a federal work or undertaking, that of customs excise.

The Board relied on the decision of *Toronto Auto Parks (Airport) Limited*, [1978] OLRB Rep. July 682, in holding that the respondent falls within provincial jurisdiction for the purpose of labour relations matters. Notwithstanding the pervasive federal regulation and the fact that the business of the employer only existed because of federal approval, the regulation or approval was seen as not touching in any meaningful sense upon labour relations matters. A business is not a federal business, work or undertaking if it is in essence a retail store in the Province of Ontario, whether or not the store is located on federal land and operates out of a federally owned building. Similarly, the Board did not find that the existence and operation of the duty-free shop was so integrally connected to the federal undertaking of operating a border crossing that it ought to be found as being within federal jurisdiction. Subsequent to the hearing, a representation vote was held in which not more than fifty percent of the ballots cast were cast in favour of the applicant. The application was dismissed. *Blue Water Bridge Duty Free Shop Inc.*, [1988] OLRB Rep. Feb. 109.

Category of Ontario Hydro employees falling within federal jurisdiction

This was an application by the Society of Ontario Hydro Professionals and Administrative Employees for certification as exclusive bargaining agent for a unit of administrative, scientific and professional engineering employees of Ontario Hydro. This decision addressed the question of whether some of these employees fell within federal jurisdiction for labour relations purposes and were, therefore, beyond the scope of this application. At this stage in the proceedings, the Board only considered whether there was a category of employees of Ontario Hydro, definable by reference to the words of section 17 of the *Atomic Energy Control Act*, whom the Board would have no jurisdiction to include in a unit in this application, without attempting to identify all of the employees who might fall within any such category.

The basis for assertion of federal jurisdiction over labour relations is the exercise, in section 17 of the *Atomic Energy Control Act*, of the declaratory power given to Parliament by section 92(10)(c) of the *Constitution Act*. By virtue of section 91(29) of the *Constitution Act*, Parliament

has the same jurisdiction over works falling within the description in section 92(10)(c) as if that description appeared as one of the classes of subjects expressly enumerated in section 91. The Board held that section 17 of the *Atomic Energy Control Act* was valid legislation; there need not be an objectively ascertainable national interest in the object of Parliament's exercise of the declaratory power under section 92(10)(c). This federal jurisdiction over the labour relations of individuals employed on or in connection with these declared works is not excluded by the fact that the declared works form part of "facilities in the province for the generation and production of electrical energy" within the meaning of subsection 92A(1) of the *Constitution Act*, nor by the fact that Ontario Hydro is owned by the provincial Crown.

It was apparent from the evidence that there were some persons who might otherwise fall within the unit affected by this application whose regular duties included the operation or supervision of the operation of CANDU reactors. Those persons, at least, fell within federal jurisdiction for labour relations purposes. The Board would not attempt to identify these persons without affording the parties a further opportunity to lead evidence and make argument addressed to these matters. *Ontario Hydro*, [1988] OLRB Rep. Feb. 187.

Broker-drivers, lessee drivers and drivers of limousines found to be dependent contractors

These were applications for certification of drivers of various airline limousine services and a livery service. This decision dealt primarily with whether "brokers who do not drive", "brokers who drive", "lessees who drive", and "drivers" were "independent contractors", "employees" or alternatively "dependent contractors".

The Board reviewed the history and development of the "dependent contractor" characterization. In considering the "working drivers" (i.e. broker-driver, lessee-driver, and driver) the Board concluded that these individuals supply primarily their labour in the service of the company's customers at times, places, and on terms specified by the companies or Transport Canada. They were, for practical purposes, totally dependent upon the company for their source of work and income. The company monitored behaviour on the job, and could effectively terminate that relationship at will. On the other hand, the Board found little evidence of entrepreneurial activity such as self-promotion, product differentiation, price competition or the organization of one's business to take advantage of limited liability or the tax laws. The Board also concluded that the relationship between a broker-driver or lessee-driver and someone who merely drives for the former (a "helper") on the evidence more resembled a partnership. The Board was satisfied that all of the working drivers were properly regarded as dependent contractors of their respective companies, and that those individuals formed an appropriate bargaining unit in each case. The Board found that brokers who did not drive, and who were not subject to the same elaborate network of control as the working drivers and concluded that these individuals were not dependent contractors within the meaning of section 1(1)(h). The Board was unable to conclude that livery drivers were dependent contractors who should be included in a bargaining unit with the working airline limousine drivers. The bargaining unit description was therefore augmented by a clarity note indicating that the drivers' unit for each respondent company would not encompass drivers when working in the livery operation. However, such livery operation may be, in itself, a separate bargaining unit. *Airline Limousine*, [1988] OLRB Rep. Mar. 225.

Interference with access to internal mail system constituting breach of section 64

The Canadian Union of Public Employees (CUPE) went to the Board with an allegation that the University of Toronto had violated section 64 of the Act in that the union was denied use of the University's internal mail service for the purpose of disseminating pro-union materials. Earlier, materials were sent to employees by the University of Toronto Staff Association (UTSA) on behalf

of CUPE. The University alleged that to permit CUPE to use the service for such a purpose would constitute "other support" for a trade union within the meaning of sections 64 and 13 of the Act. The UTSA had a history of using the internal mailing system to distribute a regular newsletter, notices, surveys and other material for its members. It also used the system to solicit membership from non-members amongst its constituency. The University had never applied censorship to materials sent via the internal system although maintained that censorship may be imposed in the instance of materials such as "hate literature".

The Board held that to allow CUPE access to the internal mail system was akin to requiring the University of Toronto to treat UTSA as it treated all other organizations on campus. Continued usage was not be considered as support for pro-union materials. While the University might have had an obligation to prevent the circulation of illegal matter through its internal mail service, union organizing material could be distributed as it was not in itself illegal. The restriction by the University of Toronto of UTSA's enjoyment of an existing practice constituted an interference with the rights of CUPE under section 64 of the Act. *University of Toronto*, [1988] OLRB Rep. Mar. 325.

VI COURT ACTIVITY

During the year under review, the Courts dealt with seven applications for judicial review, and dismissed all seven.

In two of the seven applications for judicial review which were dismissed by the Divisional Court, the applicants sought leave to appeal to the Court of Appeal. One of these leave applications was dismissed and one was granted, and that appeal is pending.

One application for judicial review was not perfected within the statutory time limit, and an application to extend the time to perfect was dismissed.

Seven applications for judicial review were withdrawn, discontinued or abandoned by the applicants in the year under review.

An application to stay Board proceedings pending a judicial review application was dismissed.

In one application which was dismissed last year, the applicant this year sought leave to appeal, which was denied. In an application for which leave to appeal the dismissal of a judicial review application was granted last year, the appeal was heard and dismissed in this fiscal year. An application brought by the Board for leave to appeal a Court of Appeal decision to the Supreme Court of Canada was dismissed.

Twelve other applications for judicial review are pending as at year-end. Two appeals, one to the Court of Appeal and one to the Supreme Court of Canada are also pending.

The following are brief summaries of matters involving the Labour Relations Board which went to Court during the fiscal year.

Marilyn Bolton
Supreme Court of Ontario, Divisional Court,
October 29, 1987; Unreported

The complainant had alleged that both her union and her employer had committed various unfair labour practices. On a motion by the respondents, the Board dismissed all but one allegation as disclosing no *prima facie* case. The Board proceeded to hear the allegation that the union had breached its statutory duty of fair representation with respect to the complainant's grievance of her dismissal. The Board concluded that the union had not violated the Act, and dismissed the complaint.

The complainant sought judicial review of the Board's decision naming the Ministry of Labour and some of its departments as respondents in addition to the employer, the union and the Board. The application sought, among other remedies, clarification as to which government agency or board had jurisdiction over a variety of employment situations.

The complainant brought a motion to compel the Board to prepare a record and file certain documentation with the Court. Since the Record and documentation had been filed prior to the hearing date of November 10, 1986, the Divisional Court dismissed the motion.

The Divisional Court heard and dismissed the application for judicial review on October 29, 1987. The Court found no grounds in the application for interfering with the Board's decision.

Brantwood Manor Nursing Home Ltd.
Ontario Court of Appeal,
January 22, 1988; Unreported

The union had complained of Brantwood Manor's laying off union employees and contracting its work out to two other companies, and had applied for declarations that Brantwood and each of the other two companies constituted one employer, bound by Brantwood's collective agreement with the union.

The Board found Brantwood Manor to have failed to bargain in good faith and interfered with the union and the rights of employees by refusing the recognize or bargain with the union's bargaining committee as it was composed. The Board also issued the two declarations of one employer, and in each case found violations of the collective agreement in assigning work to employees outside the bargaining unit and failing to abide by the union security and recognition agreements. The Board ordered reinstatement and compensation for the breaches of the collective agreement.

Brantwood sought judicial review of the Board's decision on the grounds that the Board had erred in interpreting and applying section 1(4) and exceeded its jurisdiction in finding the companies to be in breach of the collective agreement when there was no allegation of such breach before it. Brantwood also sought a stay of the Board's decision, which was granted by the Court in March 1986.

The application for judicial review was dismissed by the Divisional Court in its decision dated June 3, 1986. The Court found the Board's interpretation of section 1(4) to be reasonable and held that the common law right to contract out had not been overridden, as there was no true contracting out given Brantwood's degree of control over the other two companies. The Court also rejected an argument made by one of the companies, Med+Experts Inc., that it had not considered itself at risk of being found in breach of the collective agreement, noting that the issue of non-union hiring was before the Board in the context of unfair labour practices, and that the other companies should have known from the nature of the proceedings that any consequences to Brantwood might extend to them. The Court concluded that the other company had an adequate opportunity to address the issue of breach of the collective agreement, and was therefore not denied natural justice.

Brantwood Manor and Med+Experts sought leave to appeal the Divisional Court decision.

A motion to stay the Board's proceedings was settled between the parties, so that the Board consented to a Court order dated August 21, 1986 effectively staying the Board decision.

On September 15, 1986, leave to appeal was granted by the Court of Appeal.

On January 21 and 22, 1988 the Court of Appeal heard and dismissed Brantwood's appeal of the Divisional Court's dismissal of its judicial review application.

Cadillac Fairview Corporation Limited
Supreme Court of Ontario, Divisional Court,
November 30, 1987; 88 CLLC ¶72,016; 7 A.C.W.S. (3d) 136
Ontario Court of Appeal,
February 29, 1988; Unreported

The union had complained that Eaton's, and Cadillac Fairview, acting on behalf of its tenant Eaton's, had interfered with the union by denying union organizers access to Cadillac Fairview property just outside the Eaton's store.

The Board noted that Cadillac Fairview's conduct had clearly interfered with the trade union, and the issue was therefore whether Cadillac Fairview was acting on behalf of Eaton's. The Board considered numerous factors including the fact that Eaton's was Cadillac Fairview's prime tenant and Cadillac Fairview had no business justification of its own for its actions, and concluded that Cadillac Fairview was in fact acting on behalf of Eaton's and therefore had violated the *Labour Relations Act*. The Board ordered Cadillac Fairview to allow employees orderly access to union organizers on its property.

Cadillac Fairview sought judicial review of the Board's decision on the grounds that the Board made numerous errors in finding that Cadillac Fairview was "acting on behalf of" Eaton's and exceeded its jurisdiction by awarding a remedy which abrogated Cadillac Fairview's rights under the *Trespass to Property Act*.

In its decision dated November 30, 1987, the Court held that the Board's findings that Cadillac Fairview was acting on behalf of Eaton's and had the requisite intent to commit an unfair labour practice were not patently unreasonable. The Court also rejected Cadillac Fairview's argument that the remedy awarded by the Board was beyond its jurisdiction. The application for judicial review was accordingly dismissed.

Cadillac Fairview sought and obtained on February 29, 1988 leave to appeal the Divisional Court decision to the Court of Appeal.

Gary Hopkins
Supreme Court of Ontario, Divisional Court,
April 6, 1987; Unreported

The complainant had alleged that the union had breached its duty of fair representation with respect to the complainant's grievance of his dismissal. The union and employer requested that the Board not hear the complaint in light of the complainant's delay in filing the complaint with the Board. The Board found that due to the complainant's excessive delay in filing, a fair hearing would be impossible, and the complaint was therefore dismissed without a hearing on the merits.

The complainant brought an application for judicial review on the grounds that the Board denied him natural justice by declining to hear the merits of his complaint and erred in law with respect to the issues of onus and delay. In argument, the complainant alleged that the Board had also violated the fundamental justice provisions of the Charter. The complainant asked the Court to order the Board to proceed to hear the merits of the complaint.

The Divisional Court on April 6, 1987 dismissed the application for judicial review. The Court held that the Board was not required to hear the merits of the complaint before ruling on the preliminary objection, that the Board made no reviewable error and that the Charter did not apply.

The Ombudsman of Ontario
Supreme Court of Canada,
June 25, 1987; Unreported

The Board had refused requests by the Ombudsman for information respecting the merits of Board decisions on the ground that the Ombudsman had authority to investigate only administrative activities of the Board.

The Ombudsman sought a declaration from the Divisional Court that it had jurisdiction to investigate all activities of the Board, including the exercise of its quasi-judicial functions.

The Divisional Court granted the declaration on September 5, 1985, citing the Court of Appeal decision in *Re Ombudsman of Ontario and Health Disciplines Board of Ontario, et al.*, where it was determined that section 15 of the *Ombudsman Act* gave the Ombudsman the authority to investigate the merits of quasi-judicial decisions. The Court noted that the Ombudsman could not overrule Board decisions, but merely expose them to political scrutiny.

The Board sought and obtained in March, 1986 leave to appeal the Divisional Court decision to the Court of Appeal.

On December 17, 1986 the Court of Appeal upheld the Divisional Court decision, confirming that the *Health Disciplines Board* case had decided the issue, and dismissed the appeal with costs against the Board. In response to the Board's arguments that different considerations had to apply in the labour relations context, the Court stated that in the face of the clear wording of the *Ombudsman Act*, only the legislature, and not the Courts, could exempt particular tribunals from investigation of the merits of their decisions. The Court did confirm that Board members and employees would not be obliged to provide information to the Ombudsman if doing so would breach any of the non-disclosure provisions of the *Labour Relations Act*.

The Board applied for leave to appeal the Court of Appeal decision to the Supreme Court of Canada which, in its decision of June 25, 1987, denied the Board leave to appeal.

Ottawa Board of Education
Ontario Court of Appeal,
May 11, 1987; Unreported

This certification application and one respecting the Board of Education for the City of York were dismissed in separate Board decisions, which were then judicially reviewed together. In each case, the issue was whether a group of teachers outside the regular school programme came within the definition of "teacher" set out in the *School Boards and Teachers Collective Negotiations Act* ("Bill 100"), so that by section 2(f) of the *Labour Relations Act* the latter did not apply to them and therefore the applications had to be dismissed.

The Ottawa application involved teachers in the continuing education night school programme. The majority of the Board held that the language of Bill 100 was sufficiently broad to embrace various teaching arrangements, including this one, so that the teachers were excluded from the application of the *Labour Relations Act* and therefore the certification application was dismissed.

The York application involved teachers employed to teach credit courses at the secondary school level to residents of Humewood House, a residence for troubled teenagers. A board of arbitration had found them to be not covered by a collective agreement entered into under Bill 100 and therefore the parties agreed that the teachers were not covered by that legislation. The Board, however, noting that the agreement of the parties and the arbitration decision could not confer

upon it jurisdiction where it had none, considered the issue and held that these teachers came within the Bill 100 definition because they were qualified as teachers and employed to teach. The Board concluded that these employees were excluded from the application of the *Labour Relations Act* and accordingly the application was dismissed.

Each Board of Education sought judicial review of the decision affecting it. They alleged that the Board had erred in law in finding that the teachers came within Bill 100 and were excluded from the *Labour Relations Act*. The York Board set out as an additional ground for review a denial of freedom of association under the Charter, in that the decision had the effect of forcing the teachers to be represented by the Ontario Secondary School Teachers Federation, the union specified in Bill 100.

The two cases were heard together on May 6 to 8, 1986, and the Divisional Court issued its decision on January 27, 1987. The Court noted that the standard of review to be applied, given that the board was not interpreting its constituent statute, was correctness, and the Court held that the Board came to the correct conclusion in each case and therefore both applications for judicial review were dismissed.

Both Ottawa and York brought applications for leave to appeal the Divisional Court decision on the ground that the Court erred in concluding that Bill 100 applied to these two groups of teachers. The York Board abandoned its application by notice dated April 16, 1987. The application of the Ottawa Board for leave to appeal was dismissed by the Court of Appeal on May 11, 1987.

In this application for certification, petitions in opposition to the union were filed.

The Board, finding that the petitioners had failed to prove that the petitions were voluntary, gave no weight to the petitions and, as a result, certified the union on the basis that more than 55% of the employees in the bargaining unit were members.

The employer brought an application for judicial review on the grounds that the Board exceeded its jurisdiction and violated the equality provision (section 15) of the Charter in holding that the petitions were not voluntary in the absence of any evidence.

On December 22, 1987, the Divisional Court dismissed the application for judicial review.

Shaw-Almex Industries Limited
Supreme Court of Ontario, Divisional Court,
September 21, 1987; January 12, 1988; 88 CLLC ¶14,007
Ontario Court of Appeal,
February 22, 1988; Unreported

The union, which at the time of the Board hearing had been on strike for nearly three years, complained that Shaw-Almex, by insisting at the bargaining table that replacement workers would be kept on permanently while the strikers would be recalled only as vacancies arose, was attempting to interfere with employees' rights and with the union, and was bargaining in bad faith.

Shaw-Almex claimed that section 89(5) of the *Labour Relations Act* (the reverse-onus provision) violated section 15 of the Charter, which provides that individuals are equal before the law. When the union contended that a corporation has no status to plead section 15, which protects individuals, a majority composed of the Vice-Chair and the management Board Member found that Shaw-Almex was entitled to make the argument. The Vice-Chair and the labour Board Member went on to find that section 89(5) does not violate section 15 of the Charter and that Shaw-Almex had violated sections 15, 64 and 66 of the *Labour Relations Act*.

A request for reconsideration by Shaw-Almex was dismissed. An argument by Shaw-Almex that the Board had denied it natural justice because the Vice-Chair had discussed the case with the Chair and other Vice-Chair was unsuccessful.

Shaw-Almex sought judicial review of the Board's decision on the grounds that the Board made numerous errors of law, including failing to find section 89(5) in violation of the Charter and wrongly interpreting and applying sections 15, 64 and 66 of the *Labour Relations Act*.

While the first judicial review was still pending, the Board granted the union's request that it be allowed to photocopy documents filed by Shaw-Almex and the Board also declined Shaw-Almex's request that the Board stay the order until Shaw-Almex could seek review thereof in the Courts. Shaw-Almex then sought judicial review of the order and an interim Court order staying the Board's order pending disposition of the application for judicial review. The stay application was dismissed on September 21, 1987 and this judicial review was not pursued further.

With respect to the first application for judicial review, the Divisional Court in its decision dated January 12, 1988 held, contrary to the majority of the Board, that a corporation did not even have status to argue a violation of section 15 of the Charter and therefore the Court did not inquire into the validity of section 89(5). The Court found that the Board's interpretation and application of sections 15, 64 and 66 of the *Labour Relations Act* were not patently unreasonable. The Court also found no violation of natural justice in the Vice-Chair's discussion of the case.

Shaw-Almex sought leave to appeal the Divisional Court decision to the Court of Appeal, which denied leave on February 22, 1988.

City of Thunder Bay,
Regional Municipality of Waterloo
Supreme Court of Ontario, Divisional Court,
May 12, 1987; 59 O.R. (2d) 507

The Ministry of Community and Social Services delegated to municipal employees represented by CUPE the administration of the *Family Benefits Act*, which had been carried out by Crown employees represented by OPSEU.

Waterloo and CUPE sought a declaration pursuant to section 5 of the *Successor Rights (Crown Transfers) Act* that there had been a transfer of an undertaking from the Crown to the municipality. OPSEU and the Crown submitted in response that there had been no such transfer, as the Crown had no statutory authority to have the work performed by other than Crown employees.

The Board held that it did not need to determine whether or not the transfer was legal. It held that there had been a transfer, and that there had been an intermingling of former Crown employees with municipal employees, and that those represented by CUPE far outnumbered those represented by OPSEU. The Board declared that Waterloo was not bound by the collective agreement between OPSEU and the Crown and that CUPE was the bargaining agent for all employees described in its collective agreement with Waterloo, including the six former Crown employees.

In a similar application, CUPE sought a declaration that it represented former Crown employees who became employed by Thunder Bay as a result of the transfer of work to the City. The Board determined that there had been a transfer and intermingling of employees, and declared that the City was not bound by the collective agreement between OPSEU and the Crown and that CUPE was the bargaining agent for the employees of Thunder Bay.

OPSEU sought judicial review of both Board decisions, alleging that the Board erred in failing to decide whether the transfer of work by the Ministry was lawful. OPSEU also challenged the decision of the Ministry to transfer the work.

The two judicial reviews were heard together and dismissed by the Divisional Court on May 12, 1987. The Court concluded that the Minister did have authority to transfer the duties to municipal employees, and declined to review or interfere with the Board's decision.

VII CASELOAD

In fiscal year 1987-88, the Board received a total of 3,583 applications and complaints, an increase of six cases over the intake of 3,577 cases in 1986-87. Of the three major categories of cases that are brought to the Board under the Act, applications for certification of trade unions as bargaining agents increased by 9 percent over last year, contravention of the Act increased by less than one percent and referrals of grievances under construction industry collective agreements remained the same. The total of all other types of cases decreased by 11 percent. (Tables 1 and 2).

In addition to the cases received, 901 were carried over from the previous year, for a total caseload of 4,484 in 1987-88. Of the total caseload, 3,112, or 69 percent, were disposed of during the year; proceedings in 366 were adjourned sine die* (without a fixed date for further action) at the request of the parties; and 1,006 were pending in various stages of processing at March 31, 1988.

The total number of cases processed during the year produced an average workload of 299 cases for the Board's full-time chair and vice-chair, and the total disposition represented an average output of 207 cases.

Labour Relations Officer Activity

In 1987-88, the Board's labour relations officers were assigned a total of 2,230 cases to help the parties settle differences between them without the necessity of formal litigation before the Board. The assignments comprised 50 percent of the Board's total caseload, and included 460 certification applications, 41 cases concerning the status of individuals as employees under the Act, 801 complaints of alleged contraventions of the Act, 864 grievances under construction industry collective agreements, and 64 complaints under the *Occupational Health and Safety Act*. (Table 3).

The labour relations officers completed activity in 1,570 of the assignments, obtaining settlements in 1,363, or 87 percent. They referred 207 cases to the Board for decisions; proceedings were adjourned sine die in 258 cases; and settlement efforts were continuing in the remaining 402 cases at March 31, 1988.

Labour relations officers were also successful in having hearings waived by the parties in 212, or 71 percent, of 298 certification applications assigned for this purpose.

Representation Votes

In 1987-88, the Board's returning officers conducted a total of 281 representation votes among employees in one or more bargaining units. Of the 281 votes conducted, 232 involved certification applications, and 49 were held in applications for termination of existing bargaining rights. (Table 5).

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* The Board regards sine die cases as disposed of, although they are kept on docket for one year.

Of the certification votes, 152 involved a single union on the ballot; 79 involved two unions, and two involved three unions. Of the two-union and three-union votes, 94 percent entailed attempts to replace incumbent bargaining agents.

A total of 21,894 employees were eligible to vote in the 281 elections that were concluded, of whom 15,345, or 70 percent, cast ballots. Of those who participated, 59 percent voted in favour of union representation. In the 232 certification elections, 69 percent of the eligible voters cast ballots, with 63 percent of those who participated voting for union representation. In the 152 elections that involved a single union, 68 percent of the eligible voters cast ballots, of whom 51 percent voted for union representation. In the two-union elections 68 percent of the eligible voters cast ballots, with 79 percent of the participants voting for union representation. In the elections involving three unions, 97 percent of the eligible voters cast ballots for union representation.

In the 49 votes in applications for termination of bargaining rights, 83 percent of the eligible voters cast ballots, with only 30 percent of those who participated voting for the incumbent unions.

Last Offer Votes

In addition to taking votes ordered in its cases, the Board's Registrar was requested by the Minister to conduct votes among employees on employers' last offer for settlement of a collective agreement dispute under section 40(1) of the Act. Although the Board is not responsible for the administration of votes under that section, the Board's Registrar and field staff are used to conduct these votes because of their expertise and experience in conducting representation votes under the Act.

Of the 27 requests dealt with by the Board during the fiscal year, votes were conducted in 19 situations, settlements were reached in 5 cases before a vote was taken, and 3 cases were withdrawn.

In the 19 votes held, employees accepted the employer's offer in 11 cases by 652 votes in favour to 386 against, and rejected the offer in 8 cases by 533 votes against to 251 in favour.

Hearings

The Board held a total of 1,030 hearings and continuation of hearings in 1,415, or 32 percent of the 4,484 cases processed during the fiscal year. This was a decrease of 446 sittings from the number held in 1986-87. One hundred and eighty-seven of the hearings were conducted by vice-chair sitting alone, compared with 78 in 1986-87.

Processing Time

Table 7 provides statistics on the time taken by the Board to process the 3,112 cases disposed of in 1987-88. Information is shown separately for the three major categories of cases handled by the Board—certification applications, complaints of contraventions of the Act, and referrals of grievances under construction industry collective agreements—and for the other categories combined.

A median of 43 days was taken to proceed from filing to disposition for the 3,112 cases that were completed in 1987-88, compared with 50 days in 1986-87. Certification applications were processed in a median of 43 days, compared with 36 in 1986-87; complaints of contravention of the Act took 64 days, compared with 71 in 1986-87; and referrals of construction industry grievances required 15 days, the same as in 1986-87. The median time for the total of all other cases decreased to 71 days from 106 in 1986-87.

Sixty-nine percent of all dispositions were accomplished in 84 days (3 months) or less, compared with 73 percent for certification applications, 58 percent for complaints of contraventions of the Act, 84 percent for referrals of construction industry grievances, and 55 percent for the total of all other types of cases. The number of cases requiring more than 168 days (6 months) to complete decreased to 450 from 790 in 1986-87.

Certification of Bargaining Agents

In 1987-88, the Board received 1,125 applications for certification of trade unions as bargaining agents of employees, an increase of 91 cases over 1986-87. (Tables 1 and 2).

The applications were filed by 87 trade unions, including 21 employee associations. Eighteen of the unions, each with more than 20 applications, accounted for 81 percent of the total filings: Labourers (158 cases), Carpenters (115 cases), Canadian Paper Workers (21 cases), Public Employees (CUPE) (63 cases), Food and Commercial Workers (44 cases), Service Employees International (38 cases), International Operating Engineers (75 cases), Teamsters (33 cases), United Steelworkers (87 cases), Canadian Auto Workers (33 cases), Electrical Workers (IBEW) (26 cases), Ont. Secondary School Teachers (35 cases), Ontario Nurses Association (28 cases), Painters (24 cases), Plumbers (31 cases), Structural Iron Workers (23 cases), Retail Wholesale Employees (23 cases) and Woodworkers (51 cases). In contrast, 62 percent of the unions filed fewer than 5 applications each, with the majority making just one application. These unions together accounted for 6 percent of the total certification filings. (Table 8).

Table 9 gives the industrial distribution of the certification applications received and disposed of during the year. Non-manufacturing industries accounted for 78 percent of the applications received, concentrated in construction (404 cases), health and welfare services (120 cases), accommodation and food services (48 cases), retail trade (37 cases), education and related services (104 cases), wholesale trade (23 cases), and transportation (39 cases). These seven groups comprised 89 percent of the total non-manufacturing applications. Of the 253 applications involving establishments in manufacturing industries, 76 percent were in nine groups: food and beverage (26 cases), metal fabricating (37 cases), wood (28 cases), non-metallic minerals (20 cases), transportation equipment (24 cases), machinery (12 cases), printing and publishing (12 cases), paper (17 cases) and other manufacturing (16 cases).

In addition to the applications received, 273 cases were carried over from last year, making a total certification caseload of 1,398 in 1987-88. Of the total caseload, 1,108 were disposed of, proceedings were adjourned in 18 cases, and 272 cases were pending at March 31, 1988. Of the 1,108 dispositions, certification was granted in 750 cases including 28 in which interim certificates were issued under section 6(2) of the Act, and 4 that were certified under section 8; 183 cases were dismissed; proceedings were terminated in 4 cases; and 171 cases were withdrawn. The certified cases represented 68 percent of the total dispositions. (Table 1).

Of the 937 applications that were either certified, dismissed or terminated, final decisions in 239 cases were based on the results of representation votes. Of the 239 votes conducted, 161 involved a single union on the ballot; 76 were held between two unions; and two involved three unions. Applicants won in 147 of the votes and lost in the other 92. (Table 6).

A total of 19,390 employees were eligible to vote in the 239 elections, of whom 13,544 or 70 percent cast ballots. In the 147 votes that were won and resulted in certification, 9,243 or 65 percent of the 14,280 employees eligible to vote cast ballots, and of these voters 7,021 or 76 percent favoured union representation. In the 92 elections that were lost and resulted in dismissals, 4,301 or 84 percent of the 5,110 eligible employees participated, and of these only 36 percent voted for union representation.

Size and Composition of Bargaining Units: Small units continued to be the predominant pattern of union organizing efforts through the certification process in 1987-88. The average size of the bargaining units in the 750 applications that were certified was 36 employees, the same as in 1986-87. Units in construction certifications averaged 7 employees, compared with 8 in 1986-87; and in non-construction certifications they averaged 52 employees, compared with 44 in 1986-87. Seventy-nine percent of the total certifications involved units of fewer than 40 employees, and 45 percent applied to units of fewer than 10 employees. The total number of employees covered by the 750 certified cases increased to 27,085 from 23,536 in 1986-87. (Table 10).

Of the employees covered by the applications certified, 7,202 or 27 percent, were in bargaining units that comprised full-time employees or in units that excluded employees working 24 hours or less a week. Units composed of employees working 24 hours or less a week accounted for 4,289 employees, found mostly in education and health and welfare services and represented mainly by teachers unions and the Ontario Nurses Association. Full-time and part-time employees were represented in units covering 15,594 employees, including units that did not specifically exclude employees working 24 hours or less a week. (Tables 12 and 13).

Seventy-three percent of the employees, 19,886 were employed in production, service and related occupations; and 694 were in office, clerical and technical occupations, mainly health and welfare services. Professional employees, found mostly in education and health and welfare services, accounted for 4,766 employees; a small number, 433 employees, were in sales classifications; and 1,306 were in units that included employees in two or more classifications. (Tables 14 and 15).

Disposition Time: A median time of 36 calendar days was required to complete the 750 certified cases from receipt to disposition. For non-construction certifications the median time was 43 days, and for construction certifications the median time was 29 days. (Table 11).

Seventy-eight percent of the 750 certified cases were disposed of in 84 days (3 months) or less, 67 percent took 56 days (2 months) or less, 26 percent required 28 days (one month) or less, and 12 percent were processed in 21 days (3 weeks) or less. Sixty-three cases required longer than 168 days (6 months) to process, compared with 80 in 1986-87.

Termination of Bargaining Rights

In 1987-88, the Board received 159 applications under sections 57, 59, 60, 61 and 123 of the Act, seeking termination of the bargaining rights of trade unions. In addition, 41 cases were carried over from 1986-87.

Of the total cases processed, bargaining rights were terminated in 59 cases, 41 cases were dismissed, 30 were withdrawn or settled, 2 cases were adjourned sine die, proceedings were terminated in 3 cases, and 65 cases were pending at March 31, 1988.

Unions lost the right to represent 1,882 employees in the 59 cases in which termination was granted, but retained bargaining rights for 3,758 employees in the 70 cases that were either dismissed or withdrawn.

Of the 100 cases that were either granted or dismissed, dispositions in 46 were based on the results of representation votes. A total of 1,996 employees were eligible to vote in the 46 elections that were held, of whom 1,658 or 83 percent cast ballots. Of those who cast ballots, 517 voted for continued representation by unions and 1,141 voted against. (Table 6).

Declaration of Successor Trade Union

In 1987-88, the Board dealt with 81 applications for declarations under section 62 of the Act, on the bargaining rights of successor trade unions resulting from a merger or transfer of jurisdiction, compared to 12 in 1986-87.

Affirmative declarations were issued by the Board in 45 cases, 8 cases were withdrawn, 1 case was dismissed, proceedings were adjourned sine die in 1 case, and 26 cases were pending at March 31, 1988.

Declaration of Successor or Common Employer

In 1987-88, the Board dealt with 261 applications for declarations under section 63 of the Act, on the bargaining rights of trade unions of 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 request are often made in a single application.

Affirmative declarations were issued by the Board in 17 cases, 107 cases were either settled or withdrawn by the parties, 10 cases were dismissed, proceedings were terminated or adjourned sine die in 35 cases, and 92 cases were pending at March 31, 1988.

Accreditation of Employer Organizations

Four applications were processed under sections 125 through 127 of the Act for accreditation of employer organizations as bargaining agents of employers in the construction industry. One case was granted, affecting 18 firms employing 345 workers, proceedings were adjourned sine die in 1 case; and two cases were pending at March 31, 1988.

Declaration and Direction of Unlawful Strike

In 1987-88, the Board dealt with four applications seeking a declaration under section 92 against an alleged unlawful strike by employees in the construction industry. Two cases was settled, and proceedings were adjourned sine die in two cases.

Twenty-eight applications were dealt with seeking directions under section 92 against alleged unlawful strikes by employees in non-construction industries. Directions were issued in 6 cases, 3 cases were dismissed, 11 were withdrawn or settled, proceedings were terminated or adjourned sine die in 6 cases, and 2 cases were pending at March 31, 1988.

Twenty-three applications were also processed, seeking directions under section 135 of the Act against alleged unlawful strikes by construction workers. Directions were issued in 3 cases, 8 were withdrawn or settled, proceedings were terminated or adjourned sine die in 8 cases, and 4 were pending at March 31, 1988.

Declaration and Direction of Unlawful Lock-out

Two applications were processed in 1987-88, seeking declaration under section 93 of the Act against alleged unlawful lock-out by construction employers. Proceedings were adjourned sine die in 1 case and one was pending at March 31, 1988.

Three applications were also processed in seeking directions under section 93 of the Act against alleged unlawful lock-outs by non-construction employers. Two cases were withdrawn, and proceedings were adjourned sine die in one case.

Consent to Prosecute

In 1987-88, the Board dealt with 11 applications under section 101 of the Act, requesting consent to institute prosecution in court against trade unions and employers for alleged commission of offences under the Act.

Of the 11 applications processed, which included two carried over from the previous year, 5 were disposed of, six were pending at March 31, 1988. Of the cases disposed of, four were settled or withdrawn, and proceedings were terminated in one case.

Complaints of Contravention of Act

Complaints alleging contraventions of the Act may be filed with the Board for processing under section 89 of the Act. In handling these cases the Board emphasizes voluntary settlements by the parties involved, with the assistance of a labour relations officer.

In 1987-88, the Board received 868 complaints under this section, an increase of 6 cases over the 862 filed in 1986-87. In complaints against employers, the principal charges were alleged illegal discharge or discrimination of employees for union activity in violation of sections 64 and 66 of the Act, illegal changes in wages and working conditions contrary to section 79, and failure to bargain in good faith under section 15. These charges were made mostly in connection with applications for certification. The principal charge against trade unions was alleged failure to represent employees fairly in grievances against their employer.

In addition to the complaints received, 223 cases were carried over from 1986-87. Of the 1,091 total processed, 734 were disposed of, proceedings were adjourned sine die in 73 cases, and 284 cases were pending at March 31, 1988.

In 587 or 80 percent of the 734 dispositions, voluntary settlements and withdrawals of the complaint were secured by labour relations officers (Table 4), remedial orders were issued by the Board in 27 cases, 101 cases were dismissed, and proceedings were terminated in the remaining 19 cases.

In the cases settled by labour relations officers and those in which Board awards were made, compensation amounting to about $532,688 was made to aggrieved employees, as well as offers of reinstatement in many cases. In the 27 cases in which violations of the Act were found by the Board, employers and unions were ordered to pay compensation to 30 employees for wages and benefits lost in a specified period, and 22 of these employees were also ordered reinstated.

In addition, employers in 6 cases were ordered to post a Board notice of the employees' rights under the Act, and cease and desist directions were issued to employers in 2 other cases.

Construction Industry Grievances

Grievances over alleged violation of the provisions of a collective agreement in the construction industry may be referred to the Board for resolution under section 124 of the Act. As with complaints of contraventions of the Act, the Board encourages voluntary settlement of these cases by the parties involved, with the assistance of a labour relations officer.

In 1987-88, the Board received 865 cases under this section. 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 alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In addition to the cases received, 143 were carried over from 1986-87. Of the total 1008 processed, 671 were disposed of, proceedings were adjourned sine die in 200 cases, and 137 cases were pending at March 31, 1988.

In 603 or 90 percent of the 671 dispositions, voluntary settlements and withdrawals of the grievance were obtained by labour relations officers, awards were made by the Board in 35 cases, 14 cases were dismissed, and proceedings were terminated in the remaining 19 cases. (Table 4).

Payments totalling about $1,503,147 were recovered for unions and employees in the cases settled by labour relations officers and those in which Board awards were made.

MISCELLANEOUS APPLICATIONS AND COMPLAINTS

Right of Access

In 1987-88, the Board dealt with twenty applications in which the union sought access to the employer's property under section 11 of the Act. Access was granted in five cases, 14 were withdrawn or settled and one case was pending at March 31, 1988.

Religious Exemption

Three applications were processed under section 47 of the Act, seeking exemption for employees from the union security provisions of collective agreements because of their religious beliefs. One case was withdrawn, and two were pending at March 31, 1988.

Early Termination of Collective Agreements

Twenty-five applications were processed under section 52(3) of the Act, seeking early termination of collective agreements. Consent was granted in 20 cases, one case was withdrawn, proceedings were terminated in one case, and three were pending at March 31, 1988.

Union Financial Statements

Seven complaints were dealt with under section 85 of the Act, alleging failure by trade unions to furnish members with audited financial statements of the union's affairs. Two cases were settled, proceedings were terminated in one case, and four were pending at March 31, 1988.

Jurisdictional Disputes

Sixty-three complaints were dealt with under section 91 of the Act, involving union work jurisdiction. Five cases were dismissed, twelve cases were settled or withdrawn, proceedings were adjourned sine die in five cases, and 41 cases were pending at March 31, 1988.

Determination of Employee Status

The Board dealt with 122 applications under section 106(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Thirty-eight cases were settled or withdrawn by the parties in discussions with labour relations officers (Table 4). Determinations were made by the Board in 15 cases, in which 26 of the 41 persons in dispute were found to be employees under the Act. Ten cases were dismissed, proceedings were terminated or adjourned sine die in 19 cases, and 40 cases were pending at March 31, 1988.

Referrals by Minister of Labour

In 1987-88, the Board dealt with 7 cases referred by the Minister under section 107 of the Act for opinions or questions related to the Minister's authority to appoint a conciliation officer under section 16 of the Act, or an arbitrator under sections 44 or 45. Determinations to declare the minister's authority to appoint a conciliation officer were made in 3 cases, 1 case was dismissed, 1 was settled, proceedings were adjourned sine die in 1 case, and one case was pending at March 31, 1988.

Two cases were referred to the Board by the Minister under section 139(4) of the Act, concerning the designations of the employee and employer agencies in a bargaining relationship in the industrial, commercial and institutional sector of the construction industry. The Board advised the minister that no change was warranted to the designation of the employee bargaining agency in one case, and one case was pending at March 31, 1988.

Trusteeship Reports

One statement was filed with the Board during the year reporting that local unions had been placed under trusteeship.

First Agreement Arbitration

On May 26, 1986, section 40a was added to the *Labour Relations Act* to enable first collective agreements to be settled by arbitration. The process involves two stages: the parties must first apply to the Board for a direction to arbitrate; then if the direction is granted, they may choose to have the settlement arbitrated by the Board or privately by a board of arbitration.

Up to the end of the fiscal year, the Board received 24 applications for directions to settle first agreements by arbitration. Directions were issued in 5 cases, 1 case was dismissed, 8 cases were settled, proceedings were terminated or adjourned sine die in 7 cases, and 3 cases were pending at March 31, 1988. (Table 1).

The Board was requested to arbitrate a settlement of the first agreement in 1 case. The arbitration was settled by the parties.

Occupational Health and Safety Act

In 1987-88, the Board received 64 complaints under section 24 of the Occupational Health and Safety Act alleging wrongful discipline or discharge of employees for acting in compliance with this Act. Thirty-two cases were carried over from 1986-87.

Of the total 96 cases processed, 57 were settled or withdrawn by the parties in discussions with labour relations officers (Table 4). Two cases were granted and 10 were dismissed by the Board, proceedings were terminated or adjourned sine die in 8 cases, and the remaining 19 were pending at March 31, 1988.

Colleges Collective Bargaining Act

Five complaints were dealt with under section 78 of the *Colleges Collective Bargaining Act*, alleging contraventions of the Act. One case was settled and 1 was dismissed by the Board, proceedings were adjourned sine die in two cases and 1 was pending at March 31, 1988.

Two applications were dealt with under section 82 for a decision on the status of individuals as employees under the Act. One case was settled, and proceedings were adjourned sine die in one case.

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 Reports*: A monthly publication of selected Board decisions which also contains other information and statistics on proceedings before the Board.

A Guide to the Labour Relations Act: A booklet explaining in layman's terms the provisions of the *Labour Relations Act* and the Board's practices. This publication is revised periodically to reflect current law and Board practices. The Guide is also available in French.

Monthly Highlights: A publication in leaflet form containing scope notes of significant Board decisions on a monthly basis. This publication also contains Board notices of interest to the industrial relations community and information relating to new appointments and other internal developments.

Pamphlets: To date the Board has published three pamphlets. Two of these, "Rights of Employees, Employers and Trade Unions" and "Certification by the Ontario Labour Relations Board", are available in English, French, Italian and Portuguese. The third pamphlet entitled "Unfair Labour Practice Proceedings before the Ontario Labour Relations Board", describes unfair labour practice proceedings before the Board and also contains useful instructions in filling out Form 58, which is used to institute proceedings.

All of the Board's publications may be obtained by calling, writing, or visiting the Board's offices. The Ontario Labour Relations Board Reports is available on annual subscriptions, (January—December issues inclusive) presently priced at $45.00. Individual copies of the report may be purchased at the Government of Ontario Bookstore. Order forms for subscriptions are available from the Board.

IX STAFF AND BUDGET

At the end of the fiscal year 1987-88, the Board employed a total of 121 persons on a full-time basis. The Board has two types of employees. The Chair, Alternate Chair, Vice-Chairs and Board Members are appointed by the Lieutenant Governor in Council. The administrative, field and support staff are civil service appointees.

The total budget of the Ontario Labour Relations Board for the fiscal year was $7,115,200.

X STATISTICAL TABLES

The following statistics are indicative of the activities of the Ontario Labour Relations Board during the fiscal year 1987-88.

Table 1

Total Applications and Complaints Received, Disposed of and Pending Fiscal Year 1987-88

Type of Case	Caseload			Disposed of, Fiscal Year 1987-88							
	Total	Pending April 1, 87	Received Fiscal Year 1987-88	Total	Granted*	Dismissed	Termi-nated	With-drawn	Settled	Sine Die	Pending March 31, 1988
Total	**4,484**	**901**	**3,583**	**3,112**	**994**	**380**	**70**	**685**	**983**	**366**	**1,006**
Certification of Bargaining Agents	1,398	273	1,125	1,108	750	183	4	171	—	18	272
Declaration of Termination of Bargaining Rights	200	41	159	133	59	41	3	29	1	2	65
Declaration of Successor Trade Union	81	4	77	54	45	1	—	8	—	1	26
Declaration of Successor Employer or Common Employer Status	261	76	185	144	17	10	10	21	86	25	92
Accreditation	4	3	1	1	1	—	—	—	—	1	2
Declaration of Unlawful Strike	4	—	4	2	—	—	—	—	2	2	—
Declaration of Unlawful Lockout	2	1	1	—	—	—	—	—	—	1	1
Direction respecting Unlawful Strike	51	5	46	33	9	3	2	7	12	12	6
Direction respecting Unlawful Lockout	3	—	3	2	—	—	—	2	—	1	—
Consent to Prosecute	11	2	9	5	—	—	1	3	1	—	6
Contravention of Act	1,091	223	868	734	27	101	19	196	391	73	284
Right of Access	20	13	7	19	5	—	—	7	7	—	1
Exemption from Union Security Provision in Collective Agreement	3	—	3	1	—	—	—	1	—	—	2
Early Termination of Collective Agreement	25	3	22	22	20	—	1	1	—	—	3
Trade Union Financial Statement	7	—	7	3	—	—	1	—	2	—	4
Jurisdictional Dispute	63	28	35	17	—	5	—	7	5	5	41

(Cont'd)

Table 1 (Cont'd)

Total Applications and Complaints Received, Disposed of and Pending Fiscal Year 1987-88

Type of Case	Caseload			Disposed of, Fiscal Year 1987-88							
	Total	Pending April 1, 87	Received Fiscal Year 1987-88	Total	Granted*	Dismissed	Termi-nated	With-drawn	Settled	Sine Die	Pending March 31, 1988
Total	**4,484**	**901**	**3,583**	**3,112**	**994**	**380**	**70**	**685**	**983**	**366**	**1,006**
Referral on Employee Status	122	47	75	68	15	10	5	18	20	14	40
Referral from Minister on Appointment of Conciliation Officer or Arbitrator	7	2	5	5	3	1	—	—	1	1	1
Referral of Construction Industry Grievance	1,008	143	865	671	35	14	19	192	411	200	137
Referral from Minister on Construction Bargaining Agency	2	1	1	1	1	—	—	—	—	—	1
Complaint under Occupational Health and Safety Act	96	32	64	72	2	10	3	22	35	5	19
First Agreement Arbitration Direction	24	4	20	16	5	1	2	—	8	5	3
First Agreement Arbitration Proceedings	1	—	1	1	—	—	—	—	1	—	—

* 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 1983-84 to 1987-88

Type of Case	Number Received, Fiscal Year						Number Disposed of, Fiscal Year					
	Total	1983-84	1984-85	1985-86	1986-87	1987-88	Total	1983-84	1984-85	1985-86	1986-87	1987-88
Total	**17,040**	**3,135**	**3,509**	**3,236**	**3,577**	**3,583**	**15,058**	**2,797**	**2,866**	**2,912**	**3,371**	**3,112**
Certification of bargaining agents	5,203	871	1,148	1,025	1,034	1,125	4,950	817	985	1,034	1,006	1,108
Declaration of termination of bargaining rights	764	124	155	155	171	159	717	119	139	135	191	133
Declaration of successor trade union or employer	663	22	193	88	175	185	561	19	131	85	190	136
Declaration of common employer status	595	174	104	117	123	77	466	118	58	81	147	62
Accreditation	8	1	3	—	3	1	5	—	1	1	2	1
Declaration of unlawful strike or lockout	24	7	2	6	4	5	19	3	6	5	3	2
Directions respecting unlawful strike or lockout	266	63	39	52	63	49	198	47	31	36	49	35
Consent to prosecute	54	15	11	11	8	9	44	12	11	8	8	5
Contravention of Act	4,377	872	920	855	862	868	3,899	787	729	758	891	734
Referral of construction industry grievance	4,050	824	751	745	865	865	3,301	732	620	614	664	671
Miscellaneous	978	162	183	182	232	219	850	143	155	155	189	208
First Agreement Arbitration Direction	54	—	—	—	34	20	44	—	—	—	28	16
First Agreement Arbitration Proceedings	4	—	—	—	3	1	4	—	—	—	3	1

Table 3

**Labour Relations Officer Activity in Cases Processed*
Fiscal Year 1987-88**

Type of Case	Total Cases Assigned	Cases in Which Activity Completed					
		Settled			Referred to Board	Sine Die	Pending
		Total	Number	Percent			
Total	**2,230**	**1,570**	**1,363**	**86.8**	**207**	**258**	**402**
Certification	460	400	305	76.3	95	3	57
Interim certificate	11	11	10	90.9	1	—	—
Pre-hearing application	127	102	91	89.2	11	1	24
Other application	322	287	204	71.1	83	2	33
Contravention of Act	801	515	457	88.7	58	61	225
Construction industry grievance	864	579	533	92.0	46	181	104
Employee status	41	29	24	82.8	5	9	3
Occupational Health and Safety Act	64	47	44	93.6	3	4	13

* Includes all cases assigned to labour relations officers, which may or may not have been disposed of by the end of the year.

Table 4

**Labour Relations Officer Settlements in Cases Disposed of*
Fiscal Year 1987-88**

Type of Case	Total Disposed of	Officer Settlements	
		Number	Percent of Dispositions
Total	**1,545**	**1,285**	**83.2**
Contravention of Act	734	587	79.9
Construction industry grievance	671	603	89.8
Employee status	68	38	55.8
Occupational Health and Safety Act	72	57	79.1

* 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 1987-88

Type of Case	Number of Votes	Eligible Employees	Ballots Cast	
			Total	In Favour of Unions
Total	**281**	**21,894**	**15,345**	**9,121**
Certification	232	19,691	13,508	8,571
Pre-hearing cases				
One union	55	7,683	4,944	2,456
Two unions	68	7,329	4,877	3,857
Three unions	2	548	473	458
Construction cases				
One union	8	95	81	34
Two unions	1	6	6	5
Regular cases				
One union	89	3,405	2,613	1,386
Two unions	10	625	514	375
Termination of Bargaining Rights	49	2,203	1,837	550

* 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 1987-88

	Number of Votes			Eligible Votes			All Ballots Cast			Ballots Cast In Favour of Unions		
					In Votes			In Votes			In Votes	
Type of Case	Total	Won	Lost	Total	Won	Lost	Total	Won	Lost	Total	Won	Lost
Total	**286**	**157**	**129**	**21,594**	**14,694**	**6,900**	**15,388**	**9,625**	**5,763**	**9,162**	**7,254**	**1,908**
Certification	239	147	92	19,390	14,280	5,110	13,544	9,243	4,301	8,572	7,021	1,551
Pre-hearing cases												
One union	66	41	25	7,300	4,611	2,689	4,800	2,593	2,207	2,488	1,734	754
Two unions	65	53	12	7,308	6,625	683	4,959	4,388	571	3,902	3,665	237
Three unions	2	2	—	548	548	—	473	473	—	320	320	—
Construction cases												
One union	9	2	7	101	17	84	88	17	71	37	12	25
Two unions	1	1	—	6	6	—	6	6	—	5	5	—
Regular cases												
One union	86	40	46	3,502	2,059	1,443	2,704	1,427	1,277	1,445	966	479
Two unions	10	8	2	625	414	211	514	339	175	375	319	56
Termination of Bargaining Rights	46	10	36	1,996	414	1,582	1,658	382	1,276	517	233	284
Successor Employer	1	—	1	208	—	208	186	—	186	73	—	73

* 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 1987-88

Time Taken (Calendar Days)	All Cases		Certification Cases		Section 89 Cases		Section 124 Cases		All Other Cases	
	Dispositions	Cumulative Percent	Dispositions	Cumulative Percent	Dispositions	Cumulative Percent	Dispositions	Cumulative Percent	Dispositions	Cumulative Percent
Total	**3,112**	**100.0**	**1,108**	**100.0**	**734**	**100.0**	**671**	**100.0**	**599**	**100.0**
Under 8 days	47	1.5	8	0.7	15	2.0	5	0.7	19	3.2
8-14 days	229	8.9	22	2.7	28	5.9	163	25.0	16	5.8
15-21 days	384	21.2	113	12.9	44	11.9	205	55.6	22	9.5
22-28 days	297	30.8	139	25.5	66	20.8	63	65.0	29	14.4
29-35 days	288	40.0	162	40.1	52	27.9	37	70.5	37	20.5
36-42 days	203	46.5	94	48.6	49	34.6	17	73.0	43	27.7
43-49 days	146	51.2	66	54.5	42	40.3	14	75.1	24	31.7
50-56 days	156	56.2	71	60.9	37	45.4	13	77.0	35	37.6
57-63 days	111	59.8	44	64.9	24	48.6	12	78.8	31	42.7
64-70 days	104	63.1	39	68.4	28	52.5	11	80.5	26	47.1
71-77 days	88	66.0	33	71.4	20	55.2	12	82.3	23	50.9
78-84 days	82	68.6	22	73.4	23	58.3	10	83.8	27	55.4
85-91 days	65	70.7	24	75.5	20	61.0	3	84.2	18	58.4
92-98 days	57	72.5	19	77.3	18	63.5	6	85.1	14	60.8
99-105 days	55	74.3	12	78.3	19	66.1	8	86.3	16	63.4
106-126 days	163	79.5	49	82.8	58	74.0	16	88.7	40	70.1
127-147 days	111	83.1	32	85.6	32	78.3	6	89.6	41	77.0
148-168 days	76	85.5	26	88.0	32	82.7	3	90.0	15	79.5
Over 168 days	450	100.0	133	100.0	127	100.0	67	100.0	123	100.0

Table 8

Union Distribution of Certification Applications Received and Disposed of Fiscal Year 1987-88

Union	Number of Applications Received	Number of Applications Disposed of			
		Total	Certified	Dismissed**	Withdrawn
All Unions	**1,125**	**1,108**	**750**	**187**	**171**
CLC* Affiliates	**467**	**463**	**315**	**91**	**57**
Aluminum Brick & Glass Wkrs.	3	2	1	1	—
Bakery & Tobacco Wkrs.	2	1	1	—	—
Brewery and Soft Drink Wkrs.	2	2	1	1	—
Canadian Air Line Employees	—	1	1	—	—
Canadian Auto Workers	33	30	23	6	1
Canadian Paperworkers	21	20	16	2	2
Canadian Public Employees (CUPE)	63	63	45	10	8
Clothing and Textile Workers	3	3	1	2	—
Communications Workers (Amer)	1	1	1	—	—
Communications-Electrical Wkrs.	2	1	—	1	—
Electrical Workers (IPBEW)	2	1	—	1	—
Electrical Workers (UE)	5	7	3	3	1
Energy and Chemical Workers	15	16	11	4	1
Food and Commercial Workers	44	46	29	13	4
Glass, Pottery & Plastic Wkrs.	1	1	—	1	—
Graphic Communications Union	8	11	7	2	2
Hotel Employees	10	12	4	7	1
Ladies Garment Workers	1	3	2	—	1
Leather & Plastic Workers	1	1	1	—	—
Machinists	4	5	5	—	—
Molders	1	1	—	1	—
Newspaper Guild	1	2	2	—	—
Office and Professional Employees	3	2	2	—	—
Ontario Liquor Board Employees	4	4	2	1	1
Ontario Public Service Employees	17	25	19	4	2
Public Service Alliance	4	3	1	2	—
Railway, Transport and General Workers	9	8	5	—	3
Retail Wholesale Employees	23	22	16	3	3
Rubber Workers	4	5	3	2	—
Service Employees International	38	39	28	5	6
Theatrical Stage Employees	1	3	1	2	—
Transit Union (Intl.)	1	1	—	—	1
United Steelworkers	87	83	51	12	20
United Textile Workers	2	1	1	—	—
Woodworkers	51	37	32	5	—

* Canadian Labour Congress.
** Includes cases that were terminated.

Table 8 (Cont'd)

Non-CLC Affiliates	658	645	435	96	114
Allied Health Professionals	2	2	1	1	—
Asbestos Workers	3	1	1	—	—
Auto Workers	7	4	3	1	—
Boilermakers	2	1	1	—	—
Bricklayers International	6	4	2	1	1
Carpenters	115	107	83	16	8
Canadian Educational Workers	1	—	—	—	—
Canadian Operating Engineers	2	3	2	1	—
Christian Labour Association	11	9	5	4	—
Electrical Workers (IBEW)	26	21	14	3	4
Elevator Constructors	1	1	1	—	—
Guards Association	1	—	—	—	—
Headwear Workers	2	3	3	—	—
Independent Local Union	21	37	23	8	6
International Operating Engineers	75	65	51	5	9
Labourers	158	164	100	23	41
Occasional Teachers Association	2	2	2	—	—
Ontario English Catholic Teachers	5	3	2	1	—
Ontario Nurses Association	28	32	30	—	2
Ontario Public School Teachers	7	6	4	—	2
Ontario Secondary School Teachers	35	44	24	3	17
Painters	24	22	18	2	2
Plant Guard Workers	3	2	2	—	—
Plasterers	1	1	1	—	—
Plumbers	31	25	12	12	1
Sheet Metal Workers	18	13	11	—	2
Structural Iron Workers	23	20	9	5	6
Sudbury Mine Workers	1	1	—	1	—
Teamsters	33	36	22	6	8
Textile & Chemical Union	3	3	2	—	1
Textile Processors	11	11	5	2	4
Other	—	2	1	1	—

Table 9

Industry Distribution of Certification Applications Received and Disposed of Fiscal Year 1987-88

Industry	Number of Applications Received	Number of Applications Disposed of			
		Total	Certified	Dismissed*	Withdrawn
All Industries	**1,125**	**1,108**	**750**	**187**	**171**
Manufacturing	**253**	**273**	**178**	**62**	**33**
Food, beverages	26	39	25	10	4
Tobacco products	—	—	—	—	—
Rubber, plastic products	11	12	10	1	1
Leather	2	1	1	—	—
Textile	4	3	3	—	—
Knitting mills	2	2	—	1	1
Clothing	6	4	3	—	1
Wood	28	29	22	5	2
Furniture, fixtures	10	10	7	2	1
Paper	17	17	14	2	1
Printing, publishing	12	16	10	4	2
Primary metals	5	6	3	1	2
Fabricated metals	37	35	24	5	6
Machinery	12	14	8	5	1
Transportation equipment	24	23	15	7	1
Electrical products	9	9	4	2	3
Non-metallic minerals	20	25	16	6	3
Petroleum, coal	1	1	1	—	—
Chemicals	11	12	5	4	3
Other manufacturing	16	15	7	7	1
Non-Manufacturing	**872**	**835**	**572**	**125**	**138**
Agriculture	1	—	—	—	—
Forestry	12	10	8	1	1
Fishing, trapping	—	—	—	—	—
Mining, quarrying	6	8	6	1	1
Transportation	39	28	11	8	9
Storage	1	2	—	2	—
Communications	1	1	1	—	—
Electric, gas, water	10	13	10	2	1
Wholesale trade	23	27	18	6	3
Retail trade	37	38	25	9	4
Finance, insurance	3	3	3	—	—
Real Estate	2	2	2	—	—
Education, related services	104	86	47	12	27
Health, welfare services	120	122	107	9	6
Religious organizations	2	2	2	—	—
Recreational services	6	6	3	3	—
Management services	9	7	5	1	1
Personal services	1	3	2	1	—
Accommodation, food services	48	56	31	14	11
Other services	20	21	17	1	3

Table 9 (Cont'd)

Federal government	1	—	—	—	—
Provincial government	—	1	1	—	—
Local government	18	23	15	2	6
Other government	3	1	1	—	—
Construction	404	375	257	53	65
Other	1	—	—	—	—

* Includes cases that were terminated.

Table 10

Employees Covered by Certification Applications Granted
Fiscal Year 1987-88

	Total		Construction**		Non-Construction	
Employee Size*	Number of Applications	Number of Employees	Number of Applications	Number of Employees	Number of Applications	Number of Employees
Total	**750**	**27,085**	**262**	**1,861**	**488**	**25,224**
2-9 employees	338	1,628	206	868	132	760
10-19 employees	140	1,913	35	468	105	1,445
20-39 employees	117	3,279	20	476	97	2,803
40-99 employees	95	5,874	1	49	94	5,825
100-199 employees	35	4,845	—	—	35	4,845
200-499 employees	20	5,454	—	—	20	5,454
500 employees or more	5	4,092	—	—	5	4,092

* Refers to the total number of employees in one or more bargaining units certified in an application. A total of 806 bargaining units were certified in the 750 applications in which certification was granted.

** Refers to cases processed under the construction industry provisions of the Act. This figure should not be confused with the 257 certified construction industry applications shown in Table 9, which includes all applications involving construction employers whether processed under the construction industry provisions of the Act or not.

Table 11

Time Required to Process Certification Applications Granted*
Fiscal Year 1987-88

Calendar Days	Total Certified		Non-Construction		Construction	
	Number	Cumulative Per Cent	Number	Cumulative Per Cent	Number	Cumulative Per Cent
Total	**750**	**100.0**	**488**	**100.0**	**262**	**100.0**
Under 8 days	—	—	—	—	—	—
8-14 days	9	1.2	—	—	9	3.4
15-21 days	78	11.6	7	1.4	71	30.5
22-28 days	106	25.7	69	15.6	37	44.7
29-35 days	135	43.7	105	37.1	30	56.1
36-42 days	64	52.3	56	48.6	8	59.2
43-49 days	51	59.1	41	57.0	10	63.0
50-56 days	56	66.5	49	67.0	7	65.6
57-63 days	34	71.1	28	72.7	6	67.9
64-70 days	23	74.1	16	76.0	7	70.6
71-77 days	18	76.5	12	78.5	6	72.9
78-84 days	8	77.6	4	79.3	4	74.4
85-91 days	12	79.2	7	80.7	5	76.3
92-98 days	11	80.7	3	81.4	8	79.4
99-105 days	10	82.0	5	82.4	5	81.3
106-126 days	30	86.0	24	87.3	6	83.6
127-147 days	22	88.9	10	89.3	12	88.2
148-168 days	20	91.6	10	91.4	10	92.0
169 days and over	63	100.0	42	100.0	21	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.

Table 12

Employment Status of Employees in Bargaining Units Certified by Industry
Fiscal Year 1987-88

Industry	All Units		Full-time		Part-time		Full-time & Part-time		All Employees No Exclusion Specified	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
All Industries	**806**	**27,085**	**181**	**7,202**	**52**	**4,289**	**99**	**3,144**	**474**	**12,450**
Manufacturing	**181**	**11,323**	**61**	**3,696**	**1**	**5**	**23**	**1,151**	**96**	**6,471**
Food, beverages	26	828	2	167	—	—	3	80	21	581
Rubber, plastics	10	448	7	314	—	—	2	126	1	8
Leather	1	1,066	1	1,066	—	—	—	—	—	—
Textile	3	185	—	—	—	—	—	—	3	185
Clothing	3	122	1	83	—	—	—	—	2	39
Wood	22	1,519	5	396	—	—	1	15	16	1,108
Furniture, fixtures	7	130	4	40	—	—	—	—	3	90
Paper	14	2,305	2	84	—	—	—	—	12	2,221
Printing, publishing	10	625	6	349	—	—	2	243	2	33
Primary metals	3	46	1	17	—	—	—	—	2	29
Fabricating metals	24	605	6	219	—	—	6	171	12	215
Machinery	8	530	1	49	—	—	3	235	4	246
Transportation equipment	16	711	5	226	1	5	2	203	8	277
Electrical products	4	382	2	230	—	—	—	—	2	152
Non-metallic minerals	16	1,657	11	424	—	—	1	18	4	1,215
Petroleum, coal	1	7	—	—	—	—	—	—	1	7
Chemicals	5	110	2	18	—	—	2	47	1	45
Other manufacturing	8	47	5	14	—	—	1	13	2	20
Non-Manufacturing	**625**	**15,762**	**120**	**3,506**	**51**	**4,284**	**76**	**1,993**	**378**	**5,979**
Forestry	8	1,251	1	98	—	—	—	—	7	1,153
Mining, quarrying	6	83	—	—	—	—	—	—	6	83
Transportation	11	283	2	17	1	34	1	14	7	218
Communications	1	26	—	—	—	—	—	—	1	26
Electric, gas, water	10	232	5	122	1	7	—	—	4	103
Wholesale trade	22	445	9	114	—	—	5	204	8	127
Retail trade	25	682	13	377	—	—	4	38	8	267
Finance, insurance carriers	3	45	—	—	—	—	2	40	1	5
Real estate, insurance agencies	2	11	2	11	—	—	—	—	—	—
Education, related services	49	4,879	5	736	31	3,684	3	33	10	426
Health, welfare services	137	3,793	51	1,246	14	507	40	1,100	32	940
Religious Organizations	2	28	—	—	—	—	1	15	1	13
Recreational services	4	76	1	7	—	—	1	27	2	42
Management services	5	109	2	79	—	—	—	—	3	30
Personal services	2	62	—	—	—	—	—	—	2	62
Accommodation, food services	42	1,012	15	366	1	15	15	290	11	341
Other services	18	206	5	49	1	10	—	—	12	147
Provincial government	1	18	—	—	—	—	—	—	1	18
Local government	18	680	6	260	2	27	3	229	7	164
Other government	2	16	1	13	—	—	1	3	—	—
Construction	257	1,825	2	11	—	—	—	—	255	1,814

Table 13

Employment Status of Employees in Bargaining Units Certified by Union
Fiscal Year 1987-88

Industry	All Units		Full-time		Part-time		Full-time & Part-time		All Employees No Exclusion Specified	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
All Unions	**806**	**27,085**	**181**	**7,202**	**52**	**4,289**	**99**	**3,144**	**474**	**12,450**
CLC	**328**	**15,088**	**109**	**5,512**	**9**	**510**	**86**	**2,475**	**124**	**6,591**
Aluminum Brick and Glass Workers	1	2	1	2	—	—	—	—	—	—
Bakery and Tobacco Workers	1	25	—	—	—	—	1	25	—	—
Brewery and Soft Drink Workers	1	15	—	—	—	—	—	—	1	15
Canadian Paperworkers	19	1,224	2	129	—	—	3	48	14	1,047
Canadian Public Employees (CUPE)	54	2,941	18	1,351	4	425	16	649	16	516
Clothing and Textile Workers	1	94	1	94	—	—	—	—	—	—
Electrical Workers (UE)	3	216	—	—	—	—	1	169	2	47
Energy and Chemical Workers	11	273	1	14	—	—	5	121	5	138
Food and Commercial Workers	33	884	10	263	2	49	7	125	14	447
Graphic Communications Union	7	247	4	118	—	—	2	106	1	23
Hotel Employees	7	190	3	87	—	—	3	65	1	38
Ladies Garment Workers	2	146	2	146	—	—	—	—	—	—
Leather & Plastic Workers	1	33	1	33	—	—	—	—	—	—
Machinists	5	218	3	94	—	—	1	84	1	40
Newspaper Guild	2	33	—	—	—	—	—	—	2	33
Office and Professional Employees	2	29	—	—	—	—	—	—	2	29
Ontario Liquor Board Employees	2	33	2	33	—	—	—	—	—	—
Ontario Public Service Employees	22	655	6	165	1	8	9	330	6	152
Public Service Alliance	1	8	—	—	—	—	—	—	1	8
Railway, Transport and General Workers	5	154	4	72	—	—	—	—	1	82
Retail Wholesale Employees	17	359	5	140	—	—	2	8	10	211
Rubber Workers	3	1,075	3	1,075	—	—	—	—	—	—
Service Employees International	38	1,007	15	438	1	18	17	348	5	203
Theatrical Stage Employees	1	4	—	—	—	—	—	—	1	4
United Auto Workers	3	50	1	16	—	—	1	27	1	7
United Steelworkers	55	1,556	22	969	1	10	17	351	15	226
United Textile Workers	1	45	—	—	—	—	—	—	1	45
Woodworkers	30	3,572	5	273	—	—	1	19	24	3,280

Table 13 (Cont'd)

Employment Status of Employees in Bargaining Units Certified by Union
Fiscal Year 1987-88

Industry	All Units		Full-time		Part-time		Full-time & Part-time		All Employees No Exclusion Specified	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
Non-CLC	**478**	**11,997**	**72**	**1,690**	**43**	**3,779**	**13**	**669**	**350**	**5,859**
Allied Health Professionals	1	61	—	—	—	—	—	—	1	61
Asbestos Workers	1	2	—	—	—	—	—	—	1	2
Boilermakers	1	5	—	—	—	—	—	—	1	5
Bricklayers International	2	5	—	—	—	—	—	—	2	5
Carpenters	87	472	2	7	—	—	1	15	84	450
Canadian Auto Workers	23	2,041	7	373	—	—	5	556	11	1,112
Canadian Operating Engineers	2	11	1	7	—	—	—	—	1	4
Christian Labour Association	7	134	4	96	1	2	1	30	1	6
Communications Workers (AMER)	1	52	1	52	—	—	—	—	—	—
Electrical Workers (IBEW)	14	171	3	61	1	7	—	—	10	103
Elevator Constructors	1	7	—	—	—	—	—	—	1	7
Headwear Workers	3	10	3	10	—	—	—	—	—	—
Independent Local Union	24	1,717	2	45	1	9	—	—	21	1,663
Industrial Mechanical Workers	1	21	—	—	—	—	—	—	1	21
International Operating Engineers	52	471	5	60	—	—	—	—	47	411
Labourers	101	874	5	19	—	—	—	—	96	855
Occasional Teachers Association	2	225	—	—	2	225	—	—	—	—
Ontario English Catholic Teachers	2	85	—	—	2	85	—	—	—	—
Ontario Nurses Association	43	639	17	142	11	104	3	44	12	349
Ontario Public School Teachers	4	985	—	—	4	985	—	—	—	—
Ontario Secondary School Teachers	24	2,450	1	9	21	2,362	—	—	2	79
Painters	18	172	2	55	—	—	—	—	16	117
Plant Guard Workers	2	23	1	15	—	—	—	—	1	8
Plasterers	1	13	—	—	—	—	—	—	1	13
Plumbers	11	107	—	—	—	—	—	—	11	107
Sheet Metal Workers	11	115	—	—	—	—	—	—	11	115
Structural Iron Workers	9	38	—	—	—	—	1	4	8	34
Teamsters	23	699	14	552	—	—	2	20	7	127
Textile & Chemical Union	2	83	—	—	—	—	—	—	2	83
Textile Processors	5	309	4	187	—	—	—	—	1	122

Table 14

Occupational Groups in Bargaining Units Certified by Industry
Fiscal Year 1987-88

Industry	All Groups		Production & Related		Office, Clerical & Technical		Professional		Sales		Other	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
All Industries	**806**	**27,085**	**624**	**19,886**	**37**	**694**	**90**	**4,766**	**15**	**433**	**40**	**1,306**
Manufacturing	**181**	**11,323**	**158**	**10,766**	**6**	**88**	**5**	**51**	**2**	**22**	**10**	**396**
Food, beverage	26	828	23	809	1	4	1	7	1	8	—	—
Rubber, plastics	10	448	10	448	—	—	—	—	—	—	—	—
Leather	1	1,066	1	1,066	—	—	—	—	—	—	—	—
Textile	3	185	3	185	—	—	—	—	—	—	—	—
Clothing	3	122	2	119	—	—	—	—	—	—	1	3
Wood	22	1,519	20	1,497	1	8	—	—	1	14	—	—
Furniture, fixtures	7	130	6	126	1	4	—	—	—	—	—	—
Paper	14	2,305	11	2,158	1	33	—	—	—	—	2	114
Printing, publishing	10	625	8	592	1	14	1	19	—	—	—	—
Primary metals	3	46	1	17	1	25	—	—	—	—	1	4
Fabricated metals	24	605	23	602	—	—	—	—	—	—	1	3
Machinery	8	530	6	304	—	—	—	—	—	—	2	226
Transportation equipment	16	711	12	675	—	—	3	25	—	—	1	11
Electrical products	4	382	4	382	—	—	—	—	—	—	—	—
Non-metallic minerals	16	1,657	16	1,657	—	—	—	—	—	—	—	—
Petroleum, coal	1	7	1	7	—	—	—	—	—	—	—	—
Chemicals	5	110	4	78	—	—	—	—	—	—	1	32
Other manufacturing	8	47	7	44	—	—	—	—	—	—	1	3
Non-Manufacturing	**625**	**15,762**	**466**	**9,120**	**31**	**606**	**85**	**4,715**	**13**	**411**	**30**	**910**
Forestry	8	1,251	7	1,153	1	98	—	—	—	—	—	—
Mining, quarrying	6	83	6	83	—	—	—	—	—	—	—	—
Transportation	11	283	10	227	—	—	—	—	—	—	1	56
Communications	1	26	1	26	—	—	—	—	—	—	—	—
Electric, gas, water	10	232	7	160	2	41	1	31	—	—	—	—
Wholesale trade	22	445	16	367	3	51	—	—	1	7	2	20
Retail trade	25	682	11	196	—	—	—	—	11	401	3	85
Finance, insurance carriers	3	45	1	5	2	40	—	—	—	—	—	—
Real estate, insurance agencies	2	11	2	11	—	—	—	—	—	—	—	—
Education, related services	49	4,879	5	753	6	94	35	4,010	1	3	2	19
Health, welfare services	137	3,793	62	2,334	11	109	46	651	—	—	18	699
Religious Organizations	2	28	1	15	—	—	1	13	—	—	—	—
Recreational services	4	76	4	76	—	—	—	—	—	—	—	—
Management services	5	109	5	109	—	—	—	—	—	—	—	—
Personal services	2	62	2	62	—	—	—	—	—	—	—	—
Accommodation, food services	42	1,012	42	1,012	—	—	—	—	—	—	—	—
Other services	18	206	10	131	4	50	2	10	—	—	2	15
Provincial government	1	18	1	18	—	—	—	—	—	—	—	—
Local government	18	680	16	557	2	123	—	—	—	—	—	—
Other government	2	16	—	—	—	—	—	—	—	—	2	16
Construction	257	1,825	257	1,825	—	—	—	—	—	—	—	—

Table 15

Occupational Groups in Bargaining Units Certified by Union
Fiscal Year 1987-88

Industry	All Groups		Production & Related		Office, Clerical & Technical		Professional		Sales		Other	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
All Unions	**806**	**27,085**	**624**	**19,886**	**37**	**694**	**90**	**4,766**	**15**	**433**	**40**	**1,306**
CLC	**328**	**15,088**	**249**	**13,132**	**33**	**614**	**7**	**62**	**13**	**351**	**26**	**929**
Aluminum Brick and Glass Workers	1	2	—	—	1	2	—	—	—	—	—	—
Bakery and Tobacco Workers	1	25	1	25	—	—	—	—	—	—	—	—
Brewery and Soft Drink Workers	1	15	1	15	—	—	—	—	—	—	—	—
Canadian Paperworkers	19	1,224	11	927	6	183	—	—	—	—	2	114
Canadian Public Employees (CUPE)	54	2,941	31	2,217	10	222	3	29	1	3	9	470
Clothing and Textile Workers	1	94	1	94	—	—	—	—	—	—	—	—
Electrical Workers (UE)	3	216	3	216	—	—	—	—	—	—	—	—
Energy and Chemical Workers	11	273	10	241	—	—	—	—	—	—	1	32
Food and Commercial Workers	33	884	26	626	1	4	1	4	5	250	—	—
Graphic Communications Union	7	247	7	247	—	—	—	—	—	—	—	—
Hotel Employees	7	190	7	190	—	—	—	—	—	—	—	—
Ladies Garment Workers	2	146	2	146	—	—	—	—	—	—	—	—
Leather & Plastic Workers	1	33	1	33	—	—	—	—	—	—	—	—
Machinists	5	218	4	134	—	—	—	—	—	—	1	84
Newspaper Guild	2	33	—	—	1	14	1	19	—	—	—	—
Office and Professional Employees	2	29	1	5	1	24	—	—	—	—	—	—
Ontario Liquor Board Employees	2	33	—	—	—	—	—	—	1	8	1	25
Ontario Public Service Employees	22	655	10	415	4	66	—	—	—	—	8	174
Public Service Alliance	1	8	1	8	—	—	—	—	—	—	—	—
Railway, Transport and General Workers	5	154	5	154	—	—	—	—	—	—	—	—
Retail Wholesale Employees	17	359	12	297	1	25	1	7	2	17	1	13
Rubber Workers	3	1,075	3	1,075	—	—	—	—	—	—	—	—
Service Employees International	38	1,007	35	989	2	8	—	—	—	—	1	10
Theatrical Stage Employees	1	4	1	4	—	—	—	—	—	—	—	—
United Auto Workers	3	50	3	50	—	—	—	—	—	—	—	—
United Steelworkers	55	1,556	45	1,441	6	66	1	3	2	42	1	4
United Textile Workers	1	45	1	45	—	—	—	—	—	—	—	—
Woodworkers	30	3,572	27	3,538	—	—	—	—	2	31	1	3

Table 15 (Cont'd)

Occupational Groups in Bargaining Units Certified by Union
Fiscal Year 1987-88

Industry	All Groups		Production & Related		Office, Clerical & Technical		Professional		Sales		Other	
	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.	Number	Empls.
Non-CLC	**478**	**11,997**	**375**	**6,754**	**4**	**80**	**83**	**4,704**	**2**	**82**	**14**	**377**
Allied Health Professionals	1	61	—	—	—	—	—	—	—	—	1	61
Asbestos Workers	1	2	1	2	—	—	—	—	—	—	—	—
Boilermakers	1	5	1	5	—	—	—	—	—	—	—	—
Bricklayers International	2	5	2	5	—	—	—	—	—	—	—	—
Carpenters	87	472	87	472	—	—	—	—	—	—	—	—
Canadian Auto Workers	23	2,041	22	1,899	—	—	—	—	—	—	1	142
Canadian Operating Engineers	2	11	2	11	—	—	—	—	—	—	—	—
Christian Labour Association	7	134	3	78	—	—	2	4	—	—	2	52
Communications Workers (AMER)	1	52	1	52	—	—	—	—	—	—	—	—
Electrical Workers (IBEW)	14	171	10	115	3	45	—	—	—	—	1	11
Elevator Constructors	1	7	1	7	—	—	—	—	—	—	—	—
Headwear Workers	3	10	2	7	—	—	—	—	—	—	1	3
Independent Local Union	24	1,717	17	1,385	1	35	4	278	—	—	2	19
Industrial Mechanical Workers	1	21	1	21	—	—	—	—	—	—	—	—
International Operating Engineers	52	471	47	435	—	—	1	7	—	—	4	29
Labourers	101	874	101	874	—	—	—	—	—	—	—	—
Occasional Teachers Association	2	225	—	—	—	—	2	225	—	—	—	—
Ontario English Catholic Teachers	2	85	—	—	—	—	2	85	—	—	—	—
Ontario Nurses Association	43	639	—	—	—	—	43	639	—	—	—	—
Ontario Public School Teachers	4	985	—	—	—	—	4	985	—	—	—	—
Ontario Secondary School Teachers	24	2,450	—	—	—	—	24	2,450	—	—	—	—
Painters	18	172	18	172	—	—	—	—	—	—	—	—
Plant Guard Workers	2	23	2	23	—	—	—	—	—	—	—	—
Plasterers	1	13	1	13	—	—	—	—	—	—	—	—
Plumbers	11	107	10	76	—	—	1	31	—	—	—	—
Sheet Metal Workers	11	115	11	115	—	—	—	—	—	—	—	—
Structural Iron Workers	9	38	9	38	—	—	—	—	—	—	—	—
Teamsters	23	699	19	557	—	—	—	—	2	82	2	60
Textile & Chemical Union	2	83	2	83	—	—	—	—	—	—	—	—
Textile Processors	5	309	5	309	—	—	—	—	—	—	—	—