

**ONTARIO
LABOUR RELATIONS BOARD**

**ANNUAL REPORT
1989-90**



ONTARIO LABOUR RELATIONS BOARD

Chair M.G. MITCHNICK

Alternate Chair R.O. MacDOWELL

Vice-Chair M. BENDEL

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O.V. GRAY

B. HERLICH

R.J. HERMAN

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G.O. SHAMANSKI

R.M. SLOAN

E.G. THEOBALD

J. TRIM

M.M. VUKOBRAT

S. WESLAK

W.H. WIGHTMAN

N.A. WILSON

D. WOZNIAK

Registrar

T.A. INNISS

Deputy Registrar

J.E. BOWMAN

Board Solicitors

C. EDWARDS

K.A. MacDONALD

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Ontario
Labour Relations
Board

Commission
des relations
de travail de l'Ontario

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December 13, 1990

The Honourable Bob Mackenzie
Minister of Labour
400 University Avenue
14th Floor
Toronto, Ontario
M7A 1T7

Dear Minister:

It is my pleasure to provide to you the tenth Annual Report of the Ontario Labour Relations Board for the period commencing April 1, 1989 to March 31, 1990.

Sincerely,

A handwritten signature in black ink, appearing to read "M. G. Mitchnick".

M. G. Mitchnick
Chair

CHAIR'S MESSAGE

Had I been required to write this in the early months of my appointment, the message likely would have gone out as a note in a bottle, hoping to catch the attention of would-be rescuers. Nothing I had done or seen at the Board in my six earlier years as a Vice-Chair had provided me with a glimmer of what the job of administering a large adjudicative tribunal has become, and the first year has, for me at least, been one of transition.

This Board has, however, always been blessed with a strong staff and senior managers, and that fact has allowed me the latitude to look around and learn more about the needs and processes of the Board from the point of view of administration. Certainly a part of that learning experience has been sharing with the Board's other managers the painstaking process of readying the Board's computer program for implementation, but I am more than satisfied that the time and effort will very soon be resulting in a product that the community will regard as being of great benefit.

Service to the community is, of course, why the Board exists, and we continue to search for ways to provide that service in a manner that is more effective and efficient. The mechanism of pre-hearing conferences has been expanded in its usage, and must continue to be so as a counterpoint to the tendency to lengthier and costlier proceedings. An area of disappointment continues to be the time and resources, both of the Board and of the community, that go into the resolution of 'jurisdictional disputes', and the Board is fully cognizant of the need to explore alternate methods of resolution in that area.

One benefit to the introduction of the computer, when finally it is ready to come on stream, will be to allow the Board to more closely and regularly monitor its statistical levels of performance. As part of that, the community will be pleased to know that the Board will, for the first time, be able to track and report upon time lost in the disposition of its cases to adjournments generated by the parties. On the other side of that, however, we recognize that the rendering of decisions, once the hearing into a matter has been completed, lies solely in the hands of the Board, and we are committed to continuing our efforts to streamline our process, in order to ensure our adjudicators the opportunity to provide the community with timely decisions of the same high quality that the community has become used to.

I INTRODUCTION

This is the tenth 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, 1989 to March 31, 1990.

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 containing a brief description of every Board matter that was subject to review by the courts during the year. 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 to the Act, the appropriate remedy lay in an inquiry by a conciliation officer who then reported to the Minister who in turn could make an appropriate order.

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

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

In 1962, *The Labour Relations Amendment Act, 1961-62*, added new provisions to the Act in order to respond to unique problems which were evident in the construction industry. This industry was given a separate but somewhat similar regime under the Act in response to recommendations made in the "Goldenberg Report" (*Report of The Royal Commission on Labour Management Relations in the Construction Industry*, March, 1962). Provision was made for determination of bargaining units by reference to geographic areas rather than particular projects. The Board, in consultation with interested parties, divided the Province geographically for the purpose of certification in the construction industry. Labour policy with regard to the construction industry has continued to evolve. Legislation was introduced in 1977 to provide for province-wide bargaining in the industrial, commercial, and institutional sector of that industry in response to the recommendations contained in the "Franks Report" (*Report of the Industrial Inquiry Commission into Bargaining Patterns in the Construction Industry 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 in 1975. (*The Labour Relations Amendment Act, 1975*, S.O. 1975, c. 76). The Board was permitted to authorize a Labour Relations Officer to inquire into any complaint alleging a violation of the *Labour Relations Act*. A settlement reached by the parties and put into writing was binding on the parties, and a breach of such settlement could be dealt with in the same fashion as a breach of a provision of the Act. The Board's remedial powers were extended to all violations of the Act, and orders of the Board were enforceable in the same way that an order of the Supreme Court is enforceable. The Board also received authority to make "cease and desist" orders with respect to

any unlawful strike or lock-out. It was in 1975 as well, that the Board's jurisdiction was 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.

In December 1986, the *Equality Rights Statute Law Amendment Act, 1986* amended, amongst other statutes, the *Labour Relations Act* to bring it into line with the *Human Rights Code, 1981* and the *Canadian Charter of Rights and Freedoms*. The provisions prohibiting the Board from certifying a trade union which discriminates and deeming in agreement not to be a collective agreement if it discriminates were amended. They now include any ground of discrimination prohibited by these two statutes.

On March 31, 1990, the fines under the *Labour Relations Act* were increased by the *Provincial Penalties Adjustment Act, 1989*, S.O. 1989, c.72, s.48. For breach of the Act, fines for any individual were doubled to \$2,000 and those for a corporation or trade union were increased to \$25,000.

THE FULL BOARD AND SENIOR STAFF



1989-1990

Front Row (left to right):

J. Rundle, R. Herman, C. McDonald, J. Bowman, T. Inniss, R. MacDowell, M. Mitchnick, J. MacDonald, P. Coursey, J. McCormack, S. Tacon, I. Stamp, P. Knopf

2nd Row

N. Satterfield, T. Meagher, D. Patterson, R. Sloan, J. Ronson, R. Montague, A. Herskovitz, C. Ballentine, G. Shamanski, J. Kurchak, S. Weslak, M. Rozenberg, A. Grant, F. Kelly, K. Jenkins, A. Jenkins

3rd Row

R. Howe, R. Pirrie, R. Furness, D. MacDonald, J. Redshaw, K. Petryshen, O. Gray, E. Theobald, D. Wozniak

4th Row

G. Surdykowski, K. Rogers, B. Armstrong, K. Davies, P. Grasso, M. Nairn, J. Johnston, M. Jones, J. Trim, W. Wightman, A. Foucault, K. MacDonald, K. O'Neil, D. Lillico

5th Row

H. Kobryn, W. Correll, H. Peacock, W. Fraser, J. Lear, P. Toop, B. Herlich, L. Davie

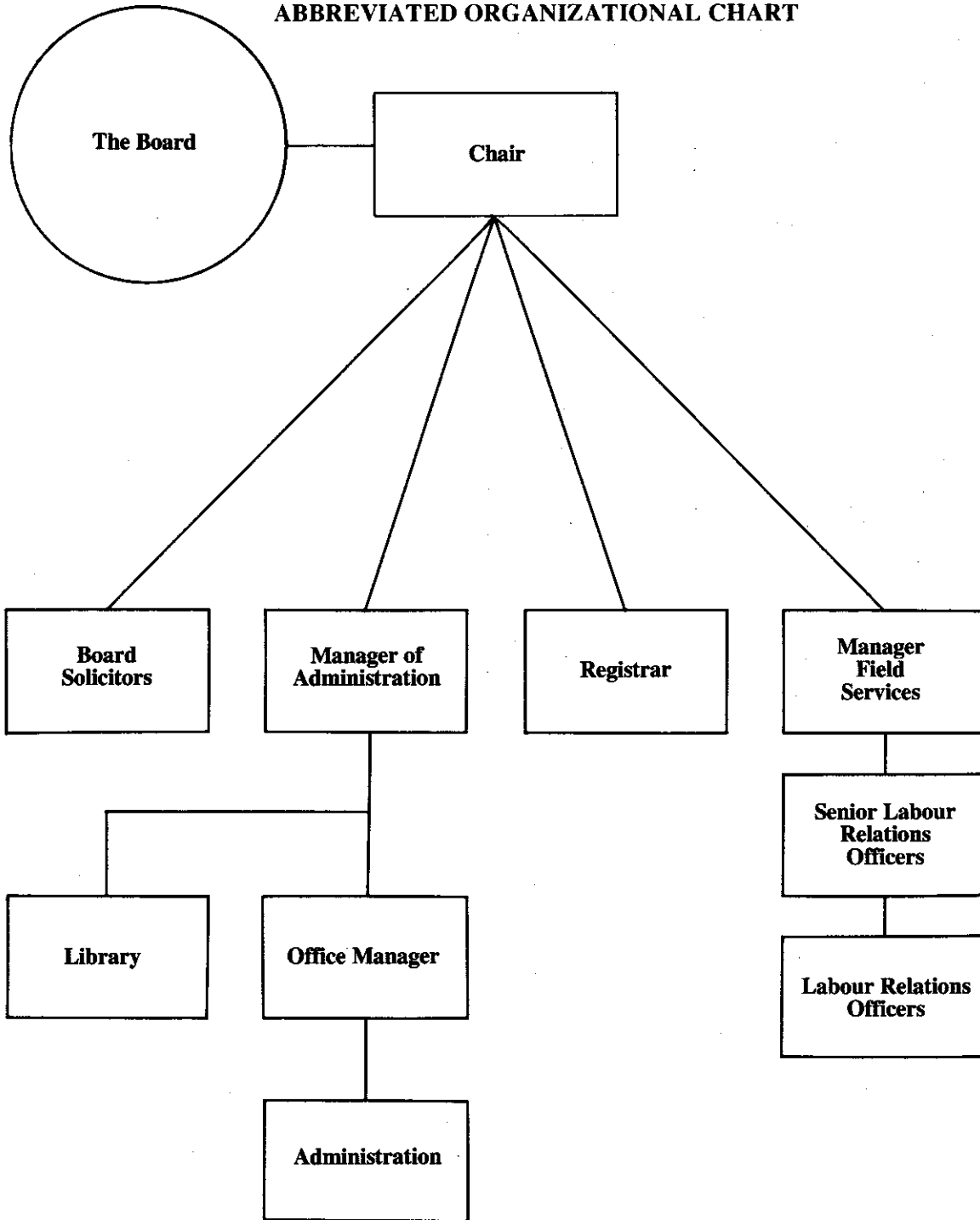
Missing:

N. Dissanayake, B. Keller, M. Bendel, W. Gibson, W. McCarron, R. McMurdo, J. Murray, W. O'Neill, M. Vukobrat, R. Anderson, J. Kennedy, M. Ross, N. Wilson, C. Edwards

III BOARD ORGANIZATION

The following is an abbreviated organizational chart of the Ontario 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, 14 full-time Vice-Chairs, 4 part-time Vice-Chairs and 42 Board Members, 22 full-time and 20 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 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 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. 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

Administrative Committee

An Administrative Committee comprised of the Chair, Alternate Chair, Registrar, Deputy Registrar, Manager of Administration, Manager of Field Services and Solicitors meets regularly to discuss all aspects of Board administration and management.

Registrar's Section

The Registrar is the chief administrative officer of the Board responsible for the overall maintenance of the Board's day-to-day operations. Her staff includes a Deputy Registrar, two assistants and three administrative secretaries.

The Registrar, through the Deputy Registrar and the Manager of Operations, supervises the Board's processing sections which process applications filed with the Board in accordance with the Board's Rules of Procedure. 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.

Manager of Administration

The Manager of Administration is responsible for the co-ordination and efficient operation of the Board through the management of the budget, human resources functions, library and the provision of administrative direction and common services.

Library Services

The Ontario Labour Relations Board Library employs a staff of three, including a full-time manager. 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 a computer index to the Board's Monthly Report of decisions. It provides access by subject, party names, file number, statutes considered, cases cited, date, etc. 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. The data base also provides a microfiche index to the decisions. The Board makes the index available to the public through Publications Ontario at 880 Bay Street.

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 two Returning/Waiver Officers. They conduct representation votes directed by the Board, as well as last offer votes directed by the Minister of Labour (see s. 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 1065 assignments, of which 88 percent were settled by the efforts of the officers. The officers handled a total of 995 grievances in the construction industry of which 93.7 percent were settled. Of 527 certification applications dealt with under the waiver of hearings programme, the officers were successful in 391 or 74 percent.

The Chair of the Board, 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-Chairs 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 becomes necessary, the solicitors are responsible for undertaking those tasks.

The solicitors are active in the staff development programme of the Board and meet regularly 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 the amendments to the Act.

MEMBERS OF THE BOARD

At the end of the fiscal year 1989-90, the Board consisted of the following members:

MORTON G. MITCHNICK, B.A., LL.B *Chair*

On March 20, 1989, Mr. Mitchnick assumed the chairship of the Ontario Labour Relations Board. A native of Hamilton, Ontario, he is a graduate of McMaster University, and received his LL.B. at the University of Toronto. Mr. Mitchnick spent eight years in labour-relations practice with the Toronto law firm of Miller, Thomson, Sedgewick, Lewis & Healy, prior to joining the Ontario Labour Relations Board as a Vice-Chair, where he served from 1979 to 1986. More recently he has enjoyed a varied "neutral" practice as a private arbitrator and mediator, as well as an adjudicator under the *Employment Standards Act*, the *Ontario Human Rights Code* and the *Canada Labour Code*. From 1986 to 1989 he served on a part-time basis as the Alternate Chair of the Ontario Public Service Labour Relations Tribunal, and from 1987 to 1989 as a Vice-Chair of the Ontario Public Service Grievance Settlement Board as well.

Mr. Mitchnick's recent publications include a comparative labour-law text on Canada's Charter of Rights entitled "Union Security and the Charter", together with a synopsis of "Practice and Procedure before the Ontario Labour Relations Board", appearing in the August 1985 issue of "Advocates' Quarterly". He has conducted a wide range of seminars on both the *Labour Relations Act* and the practice of arbitration, and is a lecturer for the University of Toronto's Continuing Education Branch on the subject of Employment and Labour Law.

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.

LOUISA M. DAVIE *Vice-Chair*

Ms. Davie was appointed a Vice-Chair of the Board in April 1988. She is a graduate of Wilfrid Laurier University, Waterloo, (B.A. 1977) and the University of Western Ontario (L.L.B. 1980). After her call to the Ontario Bar in 1982, Ms. Davie was a law clerk to the Chief Justice of the High Court of Justice. After her tenure as law clerk she practised labour and employment law with a Toronto law firm until her appointment to the Board. Ms. Davie is a part-time lecturer in the Masters of Business Administration Program, McMaster University, Hamilton, and also acts as an arbitrator.

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. After serving 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*.

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. He is also an experienced arbitrator.

BRAM HERLICH *Vice-Chair*

Mr. Herlich was appointed to the Board as a Vice-Chair in October 1989. He is a graduate of McGill University (B.A., 1972; M.A., 1977) and Osgoode Hall Law School (LL.B., 1982). Prior to joining the Board he practised labour law with a Toronto firm and also acted as in-house counsel.

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, and also acts as an arbitrator.

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.

BRIAN KELLER *Vice-Chair*

Mr. Keller joined the Board as a part-time Vice-Chair in September 1988. He is a graduate of Sir George Williams University (B.A., 1968) and the University of Ottawa (L.L.L. 1971). From 1983 until August 1988 he was a Vice-Chairman of the Canada Labour Relations Board. Mr. Keller currently acts as a private arbitrator and mediator.

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 practised labour law for the next eight years, first with a Toronto law firm and later as an in-house counsel. In 1986 she 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 and arbitrated in this area.

MARILYN NAIRN *Vice-Chair*

Ms. Nairn was appointed as a Vice-Chair to the Board in July 1989. She is a graduate of the University of Winnipeg (B.A. Econ., 1977) and the University of Ottawa (LL.B. Cum Laude, 1980). Upon her call to the Board she practised labour law until joining the Board as Solicitor in 1987. Ms. Nairn also teaches Union-Management Relations at Ryerson Polytechnical Institute and has lectured in labour relations at George Brown College and York University.

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 also 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.

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**JIM ANDERSON**

Mr. Anderson was appointed a part-time Board Member representing Labour in April, 1989. He has been active in the labour movement for many years. He has held various offices in the Canadian Union of Public Employees since 1954, and has been the Union's Ontario Regional Director since 1982. Mr. Anderson has also served as a union nominee on various Boards of Arbitration and as employee representative on Boards of Referees of the Unemployment Insurance Commission.

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 and the Urban Alliance and Race Relations Award in 1988. In 1990, Mr. Armstrong received the Harry Jerome Award of Excellence for Achievement and the Minister of State for Multiculturalism and Citizenship award for excellence in Race Relations.

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.

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.

KAREN S. DAVIES

Ms. Karen S. Davies was appointed a full-time Board member representing labour in July 1988. She has been a member of the Canadian Auto Workers for many years and has held numerous positions within the union. In 1981 she was elected Chairperson of the Technical Office and Professional Employees bargaining unit. She was responsible for matters such as negotiations, grievances, and arbitrations. Ms. Davies was elected President of Local 673 in 1987, representing technical, office and professional employees of Boeing Canada Ltd., McDonnell Douglas Canada Ltd., Spar Aerospace and Green Shield Prepaid Services. Ms. Davies has also been active in various labour organizations such as the Ontario Federation of Labour and the Labour Community Services of Metropolitan Toronto.

ANDRE ROLAND FOUCAULT

Mr. Foucault was appointed a part-time Board Member representing labour in January, 1986. A member of the Canadian Paperworkers Union since 1967, he has held several elected positions within this Union. In 1976, he was appointed to the position of Programmes Co-ordinator of the Ontario Federation of Labour. In February, 1982, Mr. Foucault joined the staff of the

Canadian Paperworkers Union as a National Representative in which capacity he has served since that time.

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. He is active in the Scottish Community, serving as Canadian Commissioner of the Clan Fraser Society of North America and on the Executive of the Clans and Scottish Societies of Canada.

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 office and appointed District Representative directing the Union's organizing efforts in Ontario. In June 1988 he was appointed a full-time member of the Board.

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.

FRANK KELLY

Mr. Kelly was appointed a part-time Board member representing labour in April, 1989. After completing his labour studies, he joined the International Brotherhood of Boilermakers, of which he has been a member for more than 40 years. Mr. Kelly has been a member of the Union's Executive Board since 1956, and has served as Business Representative for many years.

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.

JOHN KURCHAK

In February 1989 Mr. Kurchak was appointed a part-time Board Member representing labour. A member of the Sheet Metal Workers' International Association for many years, he held the positions of business agent and business manager for Local 285. Mr. Kurchak also served as a business representative with the Toronto-Central Building and Construction Trades Council. Coupled with his activities in the Solar Energy Society, he was an active member of the Conservation, Energy and Pollution Control Committee of the Ontario Federation of Labour.

JAMES LEAR

Prior to his appointment in October 1988 as a part-time Board member, Jim Lear was a Corporate Manager with the George Wimpey Canada Group, responsible for salaried personnel employment practices and benefits, insurances, construction equipment/transport acquisitions and disposals, and all administrative systems and procedures throughout the Canadian divisions and construction projects of the company. He is a past president of the Construction Safety Association of Ontario, and a former member of the Policy Review Board of the Workers' Compensation Board of Ontario.

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.

WILLIAM JOHN (JACK) MCCARRON

Apprenticed in the plumbing trade commencing in 1947, Mr. McCarron currently holds a certificate of Qualification Plumber, Certificate of Qualification Steamfitter and Master Plumber License. He worked for English & Mould Mechanical Contractor for fourteen years, eight years as Contracts Manager and Vice-President. He is currently working for the Mechanical Contractors Association of Toronto as its Labour Relations Director, a post held for fifteen years. He is a member of many construction management organizations and also has been the chairman of provincial bargaining for the Mechanical Contractors Association of Ontario since 1980. He has been re-elected for the 1990 round of bargaining. Mr. McCarron was appointed a part-time Board member representing management in February 1989.

CAROLINE M. (CURRIE) MCDONALD

Ms. McDonald was appointed a full-time Board Member representing labour in July, 1988. Ms. McDonald came to the Board with many years in the labour relations field, primarily with the Retail, Wholesale Department Store Union. Most recently she was the union's business agent for Eastern Ontario, through which she was responsible for the handling of grievances, arbitrations, contract negotiations and labour disputes. Ms. McDonald was Organizer/Co-ordinator of the Department Store Organizing Campaigns, where she was responsible for labour relations matters relevant to organizing in Ontario. Ms. McDonald has been active in the Ontario Federation of Labour and the Metropolitan Toronto and Eastern Ontario Labour Council.

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 (now Canadian 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.

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. 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 and a full-time Board Member in May 1988. 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 on retiring in 1984 was corporate manager of labour relations. 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 to 1976, he was a representative with the International Chemical Workers Union and served as Secretary-Treasurer of the Canadian Chemical Workers Union from 1976 to 1980. When the Energy and Chemical Workers Union was founded in 1980, Mr. Rogers became its Ontario Co-ordinator and remained in the position until 1988. He is a former Vice-President of the Ontario Federation of Labour. Mr. Rogers is currently employed as Director of Regional Sectoral Services with the Workers Health and Safety Centre.

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.

MARY ROZENBERG

Ms. Rozenberg was appointed a full-time Board Member representing management in May 1988. She joins the Board with an extensive background in the labour relations field which includes advising senior levels of management on labour relations matters; negotiating collective agreements; the interpretation, application and administration of various collective agreements; the

research, preparation and presentation of grievances at arbitration; and designing, implementing and teaching labour relations programs in grievance handling, arbitration, discipline, attendance, management and labour relations for supervisors.

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.

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.

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 served for several years as a management trustee on a Welfare and Pension Trust Fund and currently serves as a management trustee on a Apprenticeship Trust Fund and is a member of a Local Apprenticeship Committee.

MIKE VUKOBRAT

Mr. Vukobrat was appointed on January 31, 1990, as a part-time Board Member representing management. He has been in the Electrical Construction Industry for 36 years, the last 25 as an Electrical Contractor (power Line Construction Ltd.). In December of 1989, he retired from the organization and his position as President. He has served as a Director of the Electrical Contractors Association of Ontario from 1973 to 1989, was President 1979-1981 and Chairman of the Electrical Trade Bargaining Agency 1985-1986. He served on every negotiating committee, since Provincial Bargaining came into effect. Mr. Vukobrat also served as a Director of the Electrical power Systems Construction Association from 1981 to 1989 and served on their negotiating committees. He is immediate Past Chairman of the Construction Employers Coordinating Council of Ontario and is presently Executive Director of that organization.

STEVE WESLAK

Mr. Steve Weslak was appointed a part-time Board Member representing labour in September, 1988. A member of the International Brotherhood of Electrical Workers for over 40 years, he has served on various boards and committees. He was a member of the Executive Board of Local 353 for 12 years, and served for three years as the Board's Chairman. In 1965 Mr. Weslak was hired as an organizer for the IBEW, and he later served as Assistant Business Manager and then as Financial Secretary before his retirement in 1981. He also served on a provincial apprenticeship advisory board for four years.

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).

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 COURT ACTIVITY

During the year under review, the courts dealt with ten applications for judicial review. Nine of these applications were dismissed, and leave to appeal was sought and denied in two cases. One application for judicial review was granted, and leave to appeal was sought and obtained, and the appeal is pending as at year-end.

One application for a stay of the Board's decision pending the hearing of the application for judicial review was denied. Another was dismissed by the Registrar of the Divisional Court for delay.

A case was stated to the Divisional Court, resulting in a finding of contempt. Leave to appeal was sought and denied.

In five applications which were dismissed in previous years, applications for leave to appeal were heard. Four of these were denied and one was granted.

Two appeals of dismissals of applications for judicial review were heard and dismissed by the Court of Appeal. In one of these, leave to appeal to the Supreme Court of Canada has been granted.

The Supreme Court of Canada heard and dismissed one appeal.

Sixteen 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.

Bay Towers Homes

**Supreme Court of Ontario, Divisional Court
May 31, 1989; [1989] OLRB Rep. June 695**

The Carpenters complained that the Labourers had induced various corporations to sign voluntary recognition agreements by illegally picketing the work site.

The Labourers were negotiating collective agreements which would bind five companies, notwithstanding that only one of the five companies was unionized, and were seeking to have a 'no subcontracting' clause included in these collective agreements. The companies had agreed to include such a clause, but the negotiations broke down over the issue of an exemption period. The Labourers then picketed a work site where the four non-unionized companies were building homes, and five collective agreements were subsequently signed.

The Carpenters then brought an illegal strike application and also requested that the Board declare the five collective agreements to be invalid. They argued that the illegal strike resulted in the signing of these agreements and that the 'no sub-contracting' clauses contained in these agreements resulted in the Carpenters losing work.

The Board found that the Labourers had engaged in an illegal strike and made a declaration to that effect. However, the Board refused to nullify the collective agreements or the 'no sub-contracting' clauses contained within those agreements. The Board held that the bargaining rights of the Carpenters had not been affected by the picketing nor had their representation rights as the

exclusive bargaining agents of the employees of the subcontractor been dissolved. As well, the employers had not appeared at the proceedings and had not complained about the agreements.

The Board held that a union may obtain collective agreements that preclude other unions from obtaining work from an employer, and that the five companies would have signed the collective agreements notwithstanding the illegal picketing.

A request that the Board's decision be reconsidered by providing reasons for rulings made during the hearing was denied, as the rulings had no bearing on the final decision.

The Carpenters sought judicial review on the grounds that the Board denied natural justice by refusing to allow evidence on an essential issue, and erred in failing to grant a meaningful remedy.

The Divisional Court, in a decision dated May 31, 1989, dismissed the application for judicial review. The Court held that the Board had committed no jurisdictional error or denial of natural justice.

Cadillac Fairview Corporation Limited (T. Eaton Company)
Ontario Court of Appeal
December 20, 1989; 71 O.R. (2d) 206; 18 A.C.W.S. (3d) 927; [1989] OLRB Rep. December 1292

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.

The Court of Appeal, in its decision dated December 20, 1989, upheld the Divisional Court and dismissed the appeal. The Court held that the Board's findings that the rights afforded Cadillac Fairview pursuant to the *Trespass to Property Act* were not absolute and must be balanced with the rights afforded the union pursuant to the *Labour Relations Act* and that Cadillac Fairview had acted on behalf of Eaton's were not patently unreasonable.

Consolidated Bathurst Packaging Ltd.**Supreme Court of Canada,****March 15, 1990, 90 CLLC ¶ 14007; [1990] OLRB Rep. March 369**

The Board had issued a decision wherein it found that Consolidated Bathurst had violated section 15 of the *Labour Relations Act* by failing to bargain in good faith.

Consolidated Bathurst sought reconsideration by the Board of its decision on the ground that the Board had violated the principles of natural justice in that the panel which had heard the complaint had discussed a draft decision with the other members of the Board at a Full Board meeting. When the reconsideration was denied, Consolidated Bathurst applied for judicial review on the same ground.

The majority of the Divisional Court held in May 1985 that the Board's actions violated the fundamental principle that 'he who hears must decide'. The Court expressed concern that persons at the Full Board meeting who had not heard the case might have participated in the decision or at least have been seen to have done so. It therefore quashed the decision with costs against the Board and remitted the matter to the Board for its reconsideration.

Dissenting from the majority, one judge held that it was appropriate and even desirable for such discussions to take place as long as no one participated in the final decision except the panel who had heard the case. He would have dismissed the application.

The Board and the union sought and obtained leave to appeal in June, 1985.

In its judgement dated September 4, 1986 the Court of Appeal, adopting the reasoning of the dissenting judge of the Divisional Court, noted that it was important that Board panels consider the effect of their decisions upon the labour relations community, and that as part of their research on that issue, they ought to consult with other expert Board members. The Court held that such consultations are appropriate provided that if any new evidence was put forward or new ideas were raised, the parties would be recalled and allowed to give further submissions and provided that the final decision was made by only the panel which had heard the case. The Court of Appeal therefore overturned the Divisional Court majority decision and dismissed the judicial review application.

Consolidated Bathurst brought an application for leave to appeal to the Supreme Court of Canada, which was granted on March 26, 1987.

The Supreme Court of Canada, in its decision dated March 15, 1990, upheld the Court of Appeal decision by a majority of five to two. The majority held that full Board meetings allow the Board, when considering important policy issues, to benefit from the diverse experience of all its adjudicators and to ensure that conflicting results are not inadvertently reached in similar cases. As long as only the panel which heard the case decides it, a full Board meeting is simply a legitimate means of consultation with colleagues. Similarly, these meetings do not breach the right to be heard, provided that factual issues are not discussed, and that parties are given an opportunity to respond to any new legal or policy issues which arise. The majority noted that the rules of natural justice must reconcile the characteristics of specialized tribunals with the rights of the parties, and concluded that the balance achieved by the Board's procedure at full Board meetings is consistent with the purpose of the rules of natural justice.

Cuddy Chicks**Ontario Court of Appeal,****September 8, 1989; 70 O.R. (2d) 179; 89 CLLC ¶14,051; 17 A.C.W.S. (3d) 170; 39 Admin. L.R. 48
[1989] OLRB Rep. September 989**

The union applied for certification of employees at the employer's hatchery. The employer asserted in reply that the employees were employed in agriculture and therefore not covered by the *Labour Relations Act* by virtue of section 2(b). The union responded that the agricultural exemption is contrary to the Charter and should therefore not be applied in any event. The employer then objected that the Board had no jurisdiction to consider the union's Charter argument.

The Board in its oral decision of April 28, 1988, with written reasons issued May 6, 1988, held first that the employees were employed in agriculture. The majority of the Board went on to decide that the Board does have jurisdiction to apply the Charter in proceedings before it by virtue of its obligation under section 52 of the Charter to apply the *Labour Relations Act* in a manner consistent with the Charter and by virtue of its being a 'court of competent jurisdiction' within the meaning of section 24(1) of the Charter with respect to matters before it.

The employer sought judicial review of the Board's decision that it has jurisdiction to apply the Charter on the grounds that the Board is not a court of competent jurisdiction under section 24(1) and that section 52 is not an independent source of jurisdiction.

The Divisional Court, in its decision dated November 2, 1988, held that the Board was correct in holding that it has jurisdiction to apply the Charter. The Court held that the Board is a court of competent jurisdiction under section 24(1) with respect to matters before it, and has jurisdiction to apply the Charter by virtue of section 52 and by virtue of the Board's common law duty to apply statutes to proceedings before it. The application for judicial review was therefore dismissed.

Cuddy Chicks sought leave to appeal which was granted by the Court of Appeal on January 16, 1989.

The appeal was dismissed by the majority of the Court of Appeal in its decision dated September 8, 1989. The majority held that the Board's obligation to determine all questions of fact or law before it includes an obligation to consider the supreme law of Canada, namely the Constitution and not to apply legislation which is unconstitutional. It was noted that no deference would be shown to the Board's decision on such an issue by the courts. One of the judges in the majority held that he need not determine whether the Board is a court of competent jurisdiction; the other agreed with the dissenting judge that it is not.

The Supreme Court of Canada has granted leave to appeal, and the appeal is pending as at year-end.

Dellbrook Homes**Ontario Court of Appeal****June 26, 1989; [1989] OLRB Rep. July 823**

The Carpenters Union complained that the Labourers Union had interfered with its rights and those of employees by negotiating collective agreements which contained clauses requiring home builders to subcontract carpentry work only to carpentry contractors who were in contractual relations with the Labourers, notwithstanding that they did not represent any carpenters employed

by the home builders. The Labourers and the employers responded that the complaints should be dismissed on the basis of delay and abuse of process.

The Board in its decision dated February 7, 1988 exercised its discretion to decline to enquire into the complaints and dismissed them. The Board found that the delay in bringing these complaints was unreasonable and that the other parties would be substantially prejudiced if the complaints were allowed to proceed.

The Carpenters sought judicial review of the Board's decision on the grounds that the Board had wrongfully declined jurisdiction and denied natural justice by refusing to enquire into the complaints. They alleged that the Board had also wrongfully exercised its discretion when it declined to enquire into a complaint that it had taken irrelevant considerations into account, found prejudice without any evidence in support and attributed responsibility for its own delay to the Carpenters.

The Divisional Court on March 13, 1989 dismissed the application for judicial review, finding that the Board had sufficient evidence before it and gave sufficient grounds in its decision for exercising its discretion not to hear the complaint.

The Court of Appeal, on June 26, 1989, dismissed a motion brought by the Carpenters requesting leave to appeal.

Double S. Construction

**Supreme Court of Ontario, Divisional Court
May 16, 1989; [1989] OLRB Rep. June 696**

In a termination application, the respondent, the Labourers' District Council, asserted that because the collective agreement covered the whole province, all of its locals should also have been named as respondents. The Board found that all the locals were necessary parties, and that they had not been given adequate notice that the applicants were seeking to terminate their bargaining rights.

The Board initially ruled at the hearing that an adjournment was not appropriate and the application had to be dismissed. However, in accordance with section 106(1) of the *Labour Relations Act*, the Board reconsidered its oral decision and subsequently determined that in all the circumstances it ought to have amended the title to include the locals. The Board therefore reconsidered and revoked its decision to dismiss the application, and allowed the title to be amended.

The District Council and the locals then sought judicial review on the ground that they should have been given an opportunity to make submissions on the reconsideration application.

The Divisional Court, on May 16, 1989, dismissed the application for judicial review, noting that the result might have been different had the union offered any evidence of prejudice as a result of the reconsideration.

Empress Graphics Inc.

**Ontario Supreme Court, Divisional Court
March 21, 1990; [1990] OLRB Rep. March 396**

An application was brought under section 92 of the *Labour Relations Act* alleging that employees of Empress Graphics Inc. ("Empress") had engaged in an unlawful strike. It was also alleged that officials of the respondent union, the Graphic Communications International Union, Local 500M had counselled, encouraged, procured or supported that strike contrary to sections 72, 74, and 76 of the Act.

The problem before the Board arose because of a labour dispute between a "sister" local union and another employer. The production of certain material which might have been done by the sister union and the other employer but for that labour dispute, was to be done by Empress. The employees, in the name of solidarity, engaged in "sympathetic job action" and refused to handle that struck work.

The collective agreement between Empress and the Union contained a clause that permitted the employees the right to refuse to handle struck work. The Board held that parties cannot negotiate a term in their collective agreement which effectively negates the "no-strike" clause which is required to be included by section 42 of the *Labour Relations Act*. The Board reiterated, in colloquial terms that "you cannot contract out of the Act". The Board therefore declared that the union had called and engaged in an unlawful strike.

The union sought judicial review on the basis that the Board had made errors in law.

The Divisional Court was not persuaded that there was any error in the Board's decision that would justify the Court's intervention. Accordingly the Court dismissed the application on March 21, 1990.

G.P. Construction

**Supreme Court of Ontario, Divisional Court
June 27, 1989; [1989] OLRB Rep. June 696
Ontario Court of Appeal
Oct. 2, 1989; [1989] OLRB Rep. Oct. 1092**

The employer applied for judicial review, alleging that the Board had erred in its interpretation of the *Labour Relations Act* and had denied natural justice by giving G.P. Construction inadequate notice of the hearing.

The union moved for an order staying the judicial review pending the employer's posting security for costs. The Divisional Court granted the order on April 10, 1989.

The Divisional Court, in a decision dated June 17, 1989, dismissed the application for judicial review. The Court held that the Board had had sufficient evidence to determine that the notice was adequate and did not make a reviewable error in its application of the Act.

The Court of Appeal on October 2, 1989 denied G.P. Construction leave to appeal the Divisional Court's decision.

Great Lakes Fisheries and Allied Workers' Union

**Court of Appeal,
April 24, 1989
January 16, 1990; [1990] OLRB Rep. January 117**

The union had filed numerous applications for certification of fishermen working on boats. Nine of the employers named in the certification applications had then applied to Weekly Court for a determination of the constitutional validity of the Board's considering the certification applications and for a declaration that the fishermen came within federal jurisdiction. On September 5, 1986 the court dismissed the application as premature, as the Board, with its expertise in labour relations, had not yet heard the evidence and ruled on the constitutional issue.

Meanwhile, the Board proceeded to consider the constitutional issue, which the employers had also raised in their replies to the certification applications. The Board decided that labour

relations respecting these fishing boat crews came within provincial jurisdiction and that therefore the Board had jurisdiction to hear the applications.

The nine employers then sought judicial review of the Board's decision on the ground that it had no jurisdiction to entertain the certification applications since labour relations respecting these fishermen came within federal jurisdiction.

The Divisional Court on November 23, 1988 ruled that the Board had been correct in its decision, and for the reasons it gave, and dismissed the application for judicial review.

The employers sought and obtained leave to appeal on April 24, 1990.

The Court of Appeal, in its decision dated January 16, 1990, dismissed the appeal.

Hamilton Yellow Cab Company Limited
Supreme Court of Ontario, Divisional Court
July 10, 1989; [1989] OLRB Rep. July 824

In this application for certification, the union sought to be certified for both owner-operators and helper-drivers, who drove owner-operators' cabs during off-hours. 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. After reviewing the relationship between Yellow and the owner-operators, the Board concluded that 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. 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 that a majority of such dependent contractors wish to be included in the bargaining unit. The Board held that the structure of section 6 requires 'wishes' to be expressed in some positive way, and not by more 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 the union's submissions that Yellow and a number of other 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.

The Board subsequently declined a request to exercise its discretion to direct the taking of a representation vote, and certified the union on the basis of the membership evidence.

Yellow requested that the Board reconsider its decisions on the basis that it had no jurisdiction to create two separate units and should have conducted a vote, and that the union could not represent both these bargaining units, as one was dependent on the other. The Board, in its decision dated February 22, 1989, refused the request for reconsideration.

Yellow then sought judicial review of the three Board decisions and a stay, alleging that the Board should have dismissed the application for a single mixed unit since there was no evidence of the wishes of the employees, and that the Board erred in finding that both groups were employees of Yellow.

On July 10, 1989 the Divisional Court heard and dismissed the application for a stay, having regard to the fact that no application for judicial review had been made until July 5, 1989.

The main application for judicial review was pending as at year end.

Harbridge & Cross

Supreme Court of Ontario, Divisional Court

July 12, 1989

Court of Appeal,

October 16, 1989; [1989] OLRB Rep. October 1093

The Ontario Council of Painters referred to the Board a grievance respecting a breach by the employer of the subcontracting clause in the provincial agreement.

The Painters claimed that they had obtained bargaining rights by virtue of a working agreement between the Toronto Building and Construction Trades Council and the employer. The Board found that the recognition clause in the working agreement was broad enough to include all affiliates, including the Painters, and therefore held that the Painters did have bargaining rights and the employer was bound by the provincial agreement. It went on to find that the employer had violated the clause in the provincial agreement which prohibited subcontracting.

The employer sought judicial review on the ground that the Board's interpretation of the working agreement was patently unreasonable.

The Divisional Court on July 12, 1989 dismissed the application for judicial review, as the Board had not given the working agreement an interpretation which was patently unreasonable.

The Court of Appeal, on October 16, 1989 denied Harbridge leave to appeal the Divisional Court's dismissal of its application for judicial review.

Knob Hill Farms Limited; Donna Baydak

Supreme Court of Ontario, Divisional Court

May 30, 1988; 10 A.C.W.S. (3d) 221

Supreme Court of Ontario, Divisional Court

June 9, 1989; [1989] OLRB Rep. June 697

The United Food and Commercial Workers Union ("UFCW") applied for certification for employees of Knob Hill. The union also alleged that the employer had interfered with the union and with employees' rights and intimidated employees by means of lay-offs and wage increases, and the union sought certification under section 8 of the *Labour Relations Act* on the basis that the employer's contraventions of the Act made it unlikely that the true wishes of the employees could be ascertained. The employer argued that section 89(5) of the Act, which places the burden of proof on the employer in such complaints, is contrary to the equality provisions of the Charter. A group of objecting employees, represented by Ms. Baydak, had filed a petition in opposition to the union.

The majority of the Board ruled that the reverse onus provisions of the Act do not violate the Charter, and in any event found, without relying on the reverse onus, that the employer had contravened the *Labour Relations Act*. The Board, having determined that it was not satisfied that

the petition was voluntary, determined that the union had adequate support and that the employer's contraventions had resulted in a situation in which the employee's wishes were not likely to be ascertained. The Board therefore determined that this was an appropriate case in which to certify the union pursuant to section 8, and ordered various remedies for the unfair labour practices. A request for reconsideration of this decision was denied by the same majority.

Both Knob Hill and Ms. Baydak (on behalf of the objecting employees) sought judicial review of the Board's decision, the former on the grounds of various errors of law and patently unreasonable decisions, and the latter on the grounds that the Board had denied natural justice by misleading Ms. Baydak as to the relevant evidence and issues and had erred in failing to find the reverse onus to be in violation of the Charter.

Knob Hill sought a stay of the Board's decision pending the disposition of the judicial review and requested that the two judicial reviews be heard together.

The Divisional Court on May 30, 1988 dismissed the application for a stay and directed that the two judicial reviews would be heard together. In its reasons issued June 6, 1988, the Court noted that there was no strong *prima facie* case in the judicial review application, as the issues raised were evidentiary matters within the Board's exclusive jurisdiction.

The Divisional Court dismissed both applications for judicial review on June 9, 1989. The Court found that there was evidence on which the Board could make the findings of fact that it did. Therefore the Board's decision to attach no weight to certain evidence was one that was not reviewable by the Court.

Ms. Baydak is seeking leave to appeal the Divisional Court's decision to the Court of Appeal.

Douglas Lloyd

Supreme Court of Ontario, Divisional Court

March 9, 1989; 14 A.C.W.S. (3d) 192; [1989] OLRB Rep. March 316

Ontario Court of Appeal

June 5, 1989; [1989] OLRB Rep. June 698

Douglas Lloyd complained that he had been penalized by the Ministry of Community and Social Services, contrary to section 24 of the *Occupational Health and Safety Act*, for acting in compliance with that Act. A youth services officer at a secured custody facility, he had refused to report to work at another location at the facility because he believed that he would be leaving the remaining employees in jeopardy due to understaffing. The employer had reprimanded him and withheld his pay for the balance of the shift not worked after the refusal.

The Board in its decision noted that by section 23(1)(c), section 23, including the right to refuse unsafe work, does not apply to persons employed in the operation of a correctional facility, and that therefore Mr. Lloyd could not rely on section 23 to refuse to work. The majority held that section 17, which prohibits a worker from working in a manner which might endanger himself or others, does not indirectly give a right to refuse an instruction. The majority also held that this was not an appropriate case in which to exercise its discretion under section 24(7) to substitute a different penalty. The complaint was therefore dismissed.

Mr. Lloyd sought judicial review of the Board's decision on the grounds that the Board erred in law and declined jurisdiction by finding that he was not protected by section 24 and exceeded its jurisdiction in its interpretation of the Act. He also alleged that section 23(1)(c), by which he was excluded from the application of the right to refuse work provisions, was contrary to the equality provisions of the Charter.

The Divisional Court on March 9, 1989 dismissed this application for judicial review. The Court found that the Board's interpretation of the legislation was not patently unreasonable. The Court also held that section 23(1)(c) does not infringe the equality provisions of the Charter. The section does not relate to personal characteristics and meets a legitimate government objective in any event. The Court explicitly left open the issue of whether it would as a general rule hear Charter issues not raised before the tribunal, noting that normally on such issues the Court requires a factual record from the tribunal.

A motion for leave to appeal the decision of the Divisional Court was dismissed by the Court of Appeal on June 6, 1989.

Ontario Hydro

Supreme Court of Ontario, Divisional Court

June 12, 1989

Reported at [1989] OLRB Rep. June 698;

89 CLLC ¶ 14,044; 69 O.R. (2nd) 268

The Society of Ontario Hydro Professional and Administrative Employees (the 'Society') applied for certification for a unit of administrative, scientific and professional engineering employees of Ontario Hydro. The Coalition to Stop Certification of the Society (the 'Coalition'), which is composed of some employees opposed to the application, raised a constitutional issue as a bar to the certification of the bargaining unit the Society applied for. The argument was that there was a category of employees of Ontario Hydro, those who operate nuclear power stations, who come within federal jurisdiction by virtue of section 17 of the *Atomic Energy Control Act (AEC Act)*, which declared that nuclear facilities are works for the general advantage of Canada. The Board decided that there was such a category of employees who come within federal jurisdiction by operation of the *AEC Act* and section 92(10)(c) of the *Constitution Act, 1867*.

Ontario Hydro applied for judicial review on the grounds that the Board had made numerous errors in law. The Attorney General of Ontario and the Attorney General of Canada intervened. On June 12, 1989 the Divisional Court granted the application for judicial review, quashed the decision of the Board and ordered the Board to deal with the certification application.

The Court found that the *AEC Act* was inapplicable insofar as it purported to be a declaration placing Hydro's nuclear plants within federal jurisdiction. It decided that in pith and substance, the *AEC Act* deals with the health, safety and secrecy of nuclear energy. The core undertaking involved was the production and development of electricity, including the management of the facilities which was within provincial jurisdiction, pursuant to section 92A (enacted in 1982) of the *Constitution Act, 1867*. Labour relations is an integral part of the management of an undertaking which was accordingly within provincial jurisdiction. The Court determined that Parliament acted on a national concern and passed the *AEC Act* pursuant to the peace, order and good government provisions of the Constitution. Accordingly the general power of Parliament was to be read together with the specific head of provincial power, with the result that both the *AEC Act* and the Ontario *Labour Relations Act* could stand as they dealt with different aspects of the matter. Therefore the Court decided there was not a category of employees within federal jurisdiction.

At year end the Attorney General of Canada was seeking leave to appeal the decision of the Divisional Court.

The Ontario Legal Aid Plan
Supreme Court of Ontario; Divisional Court
January 19, 1990; 19 A.C.W.S. (3d) 65; [1990] OLRB Rep. January 118

The Ontario Public Service Employees Union applied to the Board for a declaration under section 1(4) of the *Labour Relations Act* that the Ontario Legal Aid Plan (OLAP) was a common employer with three community legal clinics for whose employees it had bargaining rights.

The Board in its decision considered 'whether OLAP [had] so involved itself in the affairs of the respondent clinics that to ensure meaningful collective bargaining the union should be able to negotiate with OLAP as well as the clinics'. The Board found that OLAP had intervened in the operation and management of the clinics, and declared OLAP and the clinics to be a single employer with respect to employees represented by the union for the purposes of the Act.

OLAP sought judicial review of the Board's decision on the grounds that the Board had improperly declined to construe the regulation establishing and funding the respective clinics (Ontario Regulation 59/86 passed pursuant to the *Legal Aid Act*, R.S.O. 1980, c.234), or to consider funding regulations.

The Divisional Court on January 19, 1990 dismissed this application for judicial review, stating that the Board was under no obligation to interpret and apply legislation other than section 1(4) of the Act in the circumstances of this case. No jurisdictional error was found, as the Board's mandate was to consider only the labour relations aspects of clinics and not the legal services aspects of their operations.

OLAP is seeking leave to appeal the Divisional Court's decision to the Court of Appeal.

Pinkerton's of Canada Ltd.
Supreme Court of Ontario, Divisional Court
17 A.C.W.S. (3d) 153; [1989] OLRB Rep. August 924

The Canadian Guards Association ("CGA") applied for certification of security guards employed by Pinkerton's. The Guards Association is affiliated with the United Steelworkers of America. The employer argued that the Board could not certify the CGA because of section 12 of the *Labour Relations Act*, which prohibits the certification of a trade union which is affiliated with a union that admits to membership persons other than security guards. The union responded that section 12 violated the freedom of association provisions contained in section 2 of the *Charter of Rights and Freedoms*. The employer replied that the Board had no jurisdiction to hear the Charter argument, and requested an adjournment of the proceedings until the Ontario Court of Appeal had decided the jurisdiction of the Board to consider the Charter in *Re Cuddy Chicks Ltd. and O.L.R.B. et al.* At that time the Court of Appeal had heard the case and reserved its decision. The Board declined to adjourn, noting that the Divisional Court's decision in *Cuddy Chicks* that the Board could hear Charter arguments stood as a statement of the law unless and until it was overturned.

Pinkerton's brought an application for judicial review to the Divisional Court on the grounds that the Board should have adjourned the proceedings until the Court of Appeal had issued its decision in *Cuddy Chicks* and that it was denied natural justice in that it had not obtained adequate disclosure of the union's case.

The Divisional Court dismissed the application on August 23, 1989. The Court held that the Board had not made a reviewable error by refusing to adjourn until a final disposition of *Cuddy Chicks* and that the disclosure argument was premature as it had not been put to the Board.

Pinkerton's is seeking leave to appeal the decision of the Divisional Court to the Court of Appeal.

Plaza Fiberglas Manufacturing Limited
Supreme Court of Ontario, Divisional Court
May 1, 1989; 69 O.R. (2nd) 115; [1989] OLRB Rep. May 528
Ontario Court of Appeal
June 5, 1989; [1989] OLRB Rep. June 707

The United Steelworkers of America had filed an application under section 93 of the *Labour Relations Act* alleging that Plaza Fiberglas Limited, Plaza Electro-Plating Ltd., Citron Automotive Industries and Sabina Citron unlawfully locked out the employees of Plaza Fiberglas. Ms. Citron, the principal of the companies as well as an individually named respondent, undertook to produce certain documents which had been the subject of a summons *duces tecum* by the union. Subsequently Ms. Citron refused to produce application forms, which revealed the addresses, telephone numbers and social insurance numbers of the persons making the applications. The Board had determined that the information was relevant and that the union was entitled to it.

The union requested that the Board state a case to the Divisional Court under section 13 of the *Statutory Powers Procedure Act* (the 'SPPA') with respect to the refusal to produce. The Board held that it should state a case and subsequently did so.

The union applied to have the stated case heard by the Divisional Court. In its decision dated March 31, 1989 the Court found that the witness had refused to produce documents without lawful excuse endorsed and gave her another opportunity to produce.

Ms. Citron applied for leave to appeal to the Court of Appeal the decision of the Divisional Court.

The Board meanwhile held a hearing on April 25, 1989 in compliance with the direction of the Divisional Court. Ms. Citron attended with counsel and again refused to produce the application forms in their entirety.

The union brought a motion to the Divisional Court to cite Ms. Citron for contempt on the basis she clearly had no lawful excuse to refuse to produce the documents before the Board. Three days before the motion was heard the witness produced the documents to the Board on the advice of counsel. Counsel for the witness argued that the contemnor, having purged her contempt, should not be convicted for contempt and that there was no act of public defiance, but rather a private dispute between a company and a union.

The Court in its decision of May 1, 1989 held that directions of the Board create a public interest. The Board issues its directions pursuant to the authority of the Legislature and those directions, in the absence of lawful excuse, must be complied with. The Court had found at the earlier hearing that the witness had acted without lawful excuse. The last-minute compliance with the Board order did not have the effect of rendering a prior act of disobedience a moot question. The Court also considered the effect of previous acts of disobedience, in particular the witness's past conduct and past relationship with the related companies and her union, which had earlier been before the courts in other proceedings. The Court concluded that the conduct of Ms. Citron constituted contempt notwithstanding her last-minute compliance.

With respect to the penalty, the Court noted that deterrence was considered to be of significant importance in assessing the appropriate sentence. The public interest requires compliance with the orders of the Ontario Labour Relations Board and it is important that those who wilfully

embark upon a course such as that taken by the witness in this case recognize that the penalty of imprisonment is alive and available to the Court. The Court imposed a sentence of 30 days in jail, and the sentence was suspended.

On June 5, 1989 the Court of Appeal dismissed the motion for leave to appeal made by Ms. Citron.

The City of Sault Ste. Marie
Supreme Court of Ontario, Divisional Court
October 5, 1988; Unreported
Ontario Court of Appeal
April 3, 1989; Unreported

The Labourers Union applied to be certified to represent employees of the city, and the Canadian Union of Public Employees and the Carpenters Union intervened. At the Board's hearing, no one appeared on behalf of the city.

The Board in its decision dated August 7, 1987 certified both the Labourers and the Carpenters pursuant to the construction industry provisions of the *Labour Relations Act*.

Counsel for the city subsequently requested that the Board conduct a hearing to reconsider its decision on the basis that he had failed to appear as he had erroneously assumed as a result of communications with the Board that there would be no hearing on the scheduled date. The Board received written submissions from the parties and in its decision of October 9, 1987 found that the city had received a notice of hearing and that counsel's failure to attend was due to his own unwarranted and false assumption. The Board declined to reconsider its earlier decision.

The city sought judicial review of the Board's decisions on the grounds that the Board made various errors of law and denied the city natural justice by proceeding in its absence and then refusing to hold a reconsideration hearing. It also alleged that sections 117 to 136 of the *Labour Relations Act* should not have been applied to a municipal corporation since that would result in the municipality being bound to a contract which might be inconsistent with the *Municipal Act*, and that furthermore these sections violate the equality provisions of the Charter.

The Divisional Court on October 5, 1988 dismissed the application for judicial review. The Court held that the bulk of the responsibility for counsel for the city's failure to appear at the hearing was his own, as he had wrongly assumed that the hearing dates had been changed. The Court was not satisfied that the two unions would not be prejudiced if the decisions were quashed, and so declined to exercise its discretion to grant the application.

The Court of Appeal denied the city leave to appeal the Divisional Court's decision, on April 3, 1989.

The Board of Education for the City of Windsor
Supreme Court of Ontario, Divisional Court
January 25, 1989; [1989] OLRB Rep. February 231
Ontario Court of Appeal
May 15, 1989; [1989] OLRB Rep. June 707

The Plumbers Union referred to the Board two construction industry grievances, alleging that the Windsor Board had violated the provincial agreement with respect to wages and non-union contracting-out. The employer responded that it was not bound by the provincial agreement because it was not an employer in the construction industry, because it contracted the work out as

an owner, and because the work was not construction work but maintenance work. In any event, if it was bound by the provincial agreement, the union was estopped from enforcing the provincial agreement because of a "gentlemen's agreement" between it and the union that the union would set aside its contracting-out rights under the provincial agreement.

In its decision dated March 4, 1988, the majority of the Board found that the Windsor Board was an employer in the construction industry with respect to the work at issue in the grievances and was therefore bound to the provincial agreement. The "gentlemen's agreement" which purported to set aside the provincial agreement's provisions was found to be null and void pursuant to section 146(2) of the *Labour Relations Act* as being an "arrangement. . . other than a provincial agreement", and the union was therefore not estopped from grieving the non-union contracting-out. The Board then dealt with the grievances, and found violations of the wage and contracting-out provisions of the provincial agreement.

The Windsor Board sought judicial review of the Board's decision on the grounds, among others, that the Board erred in finding it to be an employer in the construction industry and in refusing to apply the doctrine of estoppel.

The Divisional Court, in its decision dated January 25, 1989, held that the Board's findings were not unreasonable or for that matter wrong, and dismissed the application for judicial review.

The Windsor Board was refused leave to appeal the decision of the Divisional Court by the Court of Appeal on May 15, 1989.

VI CASELOAD

In fiscal year 1989-90 the Board received a total of 3,287 applications and complaints, an increase of two percent over the intake of 3,225 cases in 1988-89. 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 decreased by three percent over last year, contraventions of the Act increased by four percent and referrals of grievances under construction industry collective agreements increased by 19 percent. The total of all other types of cases decreased by 11 percent. (Tables 1 and 2.)

In addition to the cases received, 926 were carried over from the previous year for a total caseload of 4,213 in 1989-90. Of the total caseload, 2,685 or 64 percent, were disposed of during the year; proceedings in 493 were adjourned sine die* (without a fixed date of further action) at the request of the parties; and 1,035 were pending in various stages of processing at March 31, 1990.

The total number of cases processed during the year produced an average workload of 281 cases for the Board's full-time chair and vice-chairs, and the total disposition represented an average output of 179 cases.

Labour Relations Officer Activity

In 1989-90, the Board's labour relations officers were assigned a total of 2,263 cases to help the parties settle differences between them without the necessity of formal litigation before the Board. The assignments comprised 54 percent of the Board's total caseload, and included 543 certification applications, 31 cases concerning the status of individuals as employees under the Act, 749 complaints of alleged contravention of the Act, 876 grievances under construction industry collective agreements, 63 complaints under the *Occupational Health and Safety Act*, and one under the *Environmental Protection Act* (Table 3.)

The labour relations officers completed activity in 1,492 of the assignments, obtaining settlements in 1,374, or 92 percent. They referred 118 cases to the Board for decisions; proceedings were adjourned sine die in 335 cases; and settlement efforts were continuing in the remaining 436 cases at March 31, 1990. Labour relations officers were also successful in having hearings waived by the parties in 148 or 64 percent, of 233 certification applications assigned for this purpose.

Representation Votes

In 1989-1990, the Board's returning officers conducted a total of 181 representation votes among employees in one or more bargaining units. Of the 181 votes conducted, 131 involved certification applications, 46 were held in applications for termination of existing bargaining rights, and four were taken in successor employer applications. (Table 5.)

Of the certification votes, 92 involved a single union on the ballot, and 39 involved two unions.

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

A total of 14,881 employees were eligible to vote in the 181 elections that were concluded, of whom 11,529 or 77 percent, cast ballots. Of those who participated, 49 percent voted in favour of union representation. In the 92 elections that involved a single union, 73 percent of the eligible voters cast ballots, with 48 percent of the participants voting for union representation.

In the 46 votes in applications for termination of bargaining rights, 91 percent of the eligible voters cast ballots, with only 25 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 17 requests dealt with by the Board during the fiscal year, votes were conducted in eight situations, and settlements were reached in nine cases before a vote was taken.

In the eight votes held, employees accepted the employer's offer in two cases by 151 votes in favour to 103 against, and rejected the offer in six cases by 1,143 votes against to 653 in favour.

Hearings

The Board held a total of 1,075 hearings and continuation of hearings in 1,181 or 28 percent of the 4,213 cases processed during the fiscal year. This was a decrease of 16 sittings from the number held in 1988-89. Sixty-five of the hearings were conducted by a vice-chair sitting alone, compared with 141 in 1988-89.

Processing Time

Table 7 provides statistics on the time taken by the Board to process the 2,685 cases disposed of in 1989-90. Information is shown separately for the three major categories of cases handled by the Board - certification applications, complaints of contravention of the Act, and referrals of grievances under construction industry collective agreements - and for the other categories combined.

A median of 47 days was taken to proceed from filing to disposition for 2,685 cases that were completed in 1989-90, compared with 43 days in 1988-89; certification applications were processed in a median of 40 days, compared with 36 days in 1988-89; complaints of contravention of the Act took 53 days, compared with 64 days in 1988-89; and referrals of construction industry grievances required 15 days, the same as in 1988-89. The median time for the total of all other cases decreased to 75 days from 85 in 1988-89.

Seventy percent of all dispositions were accomplished in 84 days (3 months) or less, compared with 78 percent for certification applications, 65 percent for complaints of contravention of the Act, 78 percent for referrals of construction industry grievances, and 56 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 404 from 449 in 1988-89.

Certification of Bargaining Agents

In 1989-90, the Board received 910 applications for certification of trade unions as bargaining agents of employees, a decrease of 28 over 1988-89. (Tables 1 and 2.)

The applications were filed by 96 trade unions, including 38 employee associations. Fourteen of the unions, each with more than 20 applications, accounted for 73 percent of the total filings: Canadian Auto Workers (34 cases), Public Employees (CUPE) (61 cases), Food and Commercial Workers (33 cases), Ontario Public Service Employees (20 cases), Retail Wholesale Employees (25 cases), Service Employees Intl. (46 cases), United Steelworkers (64 cases), Carpenters (81 cases), Electrical Workers (IBEW) (28 cases), Intl. Operating Engineers (31 cases), Labourers (156 cases), Ontario Secondary Teachers (22 cases), Painters (26 cases) and Teamsters (40 cases). In contrast, 24 percent of the unions filed fewer than 5 applications each. These unions together accounted for 5 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 80 percent of the applications received, concentrated in construction (308 cases), health and welfare services (110 cases), education and related services (83 cases), transportation (29 cases), accommodation and food services (27 cases), retail trade (26 cases) and wholesale trade (23 cases). These seven groups comprised 83 percent of the total non-manufacturing applications. Of the 179 applications involving establishments in manufacturing industries, 72 percent were in seven groups: food and beverage (24 cases), metal fabricating (23 cases), wood (16 cases), transportation equipment (16 cases), printing and publishing (23 cases), other manufacturing (17 cases), and rubber and plastics (10 cases).

In addition to the applications received, 227 cases were carried over from last year, making a total certification caseload of 1,137 in 1989-90. Of the total caseload, 880 were disposed of, proceedings were adjourned sine die in 31 cases, and 226 cases were pending at March 31, 1990. Of the 880 dispositions, certification was granted in 573 cases, including 7 in which interim certificates were issued under section 6 (2) of the Act, and 2 that were certified under section 8; 117 cases were dismissed; proceedings were terminated in 30 cases; and 160 cases were withdrawn. The certified cases represented 65 percent of the total dispositions. (Table 1.)

Of the 720 applications that were either certified, dismissed or terminated, final decisions in 148 cases were based on the results of representation votes. Of the 148 votes conducted, 104 involved a single union on the ballot, and 44 were held between two unions. Applicants won in 88 of the votes and lost in the other 60. (Table 6.)

A total of 13,150 employees were eligible to vote in the 148 elections, of whom 10,320 or 78 percent cast ballots. In the 88 votes that were won and resulted in certification, 5,281 or 73 percent of the 7,202 employees eligible to vote cast ballots, and of these voters 3,568 or 68 percent favoured union representation. In the 60 elections that were lost and resulted in dismissals, 5,039 or 85 percent of the 5,948 eligible employees participated, and of these only 33 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 1989-90. The average size of the bargaining units in the 573 applications that were certified was 30 employees, the same as in 1988-89. Units in construction certifications averaged 7 employees, the same as in 1988-89; and in non-construction certifications they averaged 41 employees, compared with 40 in 1988-89. Eighty-two percent of the total certifications involved units of fewer than 40 employees, and 42 percent

applied to units of fewer than 10 employees. The total number of employees covered by the 573 certification applications granted decreased to 17,184 from 21,440 in 1988-89. (Table 10.)

Of the employees covered by the applications certified, 4,437 or 26 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 1,574 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 11,173 employees, including units that did not specifically exclude employees working 24 hours or less a week. (Tables 12 and 13.)

Seventy-six percent of the employees, or 13,138 were employed in production, service and related occupations; and 657 were in office, clerical and technical occupations - mainly in education, and health and welfare services. Professional employees, found mostly in education, and health and welfare services, accounted for 1,831 employees; a small number, 101 employees, were in sales classifications, and 1,457 were in units that included employees in two or more classifications. (Tables 14 and 15.)

Disposition Time: A median time of 30 calendar days was required to complete the 573 certification applications granted from receipt to disposition. For non-construction certifications, the median time was 29 days, and for construction certifications the median time was 32 days. (Table 11.)

Eighty-four percent of the 573 certification applications granted were disposed of in 84 days (3 months) or less, 72 percent took 56 days (2 months) or less, 34 percent required 28 days (one month) or less, and 10 percent were processed in 21 days (3 weeks) or less. Thirty-five cases required longer than 168 days (6 months) to process, compared with 45 cases in 1988-89.

Termination of Bargaining Rights

In 1989-90, the Board received 167 applications under sections 57, 59, 60, 61, and 123 of the Act, seeking termination of the bargaining rights of trade unions. In addition, 30 cases were carried over from 1988-89.

Of the total cases processed, bargaining rights were terminated in 69 cases, 33 cases were dismissed, 27 were withdrawn or settled, proceedings were terminated or adjourned sine die in 6 cases, and 62 cases were pending at March 31, 1990.

Unions lost the right to represent 855 employees in the 69 cases in which termination was granted, but retained bargaining rights for 1,023 employees in the 59 cases that were either dismissed or withdrawn.

Of the 102 cases that were either granted or dismissed, dispositions in 40 were based on the results of representation votes. A total of 816 employees were eligible to vote in the 40 elections that were held, of whom 724 or 89 percent cast ballots. Of those who cast ballots, 163 voted for continued representation by unions and 561 voted against. (Table 6.)

Declaration of Successor Trade Union

In 1989-90, the Board dealt with 23 applications for declarations under section 62 of the Act concerning the bargaining rights of successor trade unions resulting from a union merger or transfer of jurisdiction, compared to 34 in 1988-89.

Affirmative declarations were issued by the Board in 17 cases, 2 cases were withdrawn and 4 cases were terminated.

Declaration of Successor or Common Employer

In 1989-90, the Board dealt with 350 applications for declarations under section 63 of the Act concerning 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 21 cases, 104 cases were either settled or withdrawn by the parties, 12 cases were dismissed, proceedings were terminated or adjourned sine die in 63 cases, and 150 cases were pending at March 31, 1990.

Accreditation of Employer Organizations

Six 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 and 5 cases were pending at March 31, 1990.

Declaration and Direction of Unlawful Strike

In 1989-90, the Board dealt with 11 applications seeking a declaration under Section 92 against an alleged unlawful strike by employees in the construction industry. One case was granted, 7 cases were withdrawn or settled, and 3 were pending at March 31, 1990.

Thirty-one applications were dealt with seeking directions under section 92 against alleged unlawful strikes by employees in non-construction industries. Directions were issued in 7 cases, 4 cases were dismissed, 10 were settled or withdrawn, proceedings were terminated or adjourned sine die in 6 cases, and 4 were pending at March 31, 1990.

Thirty-two applications were also processed, seeking directions under section 135 of the Act against alleged unlawful strikes by construction workers. Directions were issued in 6 cases, 1 case was dismissed, 5 were settled or withdrawn, proceedings were terminated or adjourned sine die in 16 cases, and 4 were pending at March 31, 1990.

Declaration and Direction of Unlawful Lock-out

One application was processed in 1989-90, seeking declaration under section 93 of the Act against alleged unlawful lock-out by construction employers. The case was dismissed.

Five applications were processed seeking a direction under section 93 of the Act against alleged unlawful lock-out by non-construction employers. A direction was issued in 1 case, 3 were settled or withdrawn, and 1 case was pending at March 31, 1990.

Consent to Prosecute

In 1989-90, the Board dealt with 6 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 6 applications processed, which included 1 carried over from the previous year, 3 were disposed of, and 3 were pending at March 31, 1990. Of the cases disposed of, proceedings were terminated in 1 case, and 2 were settled or withdrawn.

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 1989-90, the Board received 807 complaints under this section, an increase of 20 cases over the 787 filed in 1988-89. In complaints against employers, the principal charges were alleged illegal discharge of or discrimination against 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, 233 cases were carried over from 1988-89. Of the 1,040 total processed, 695 were disposed of, proceedings were adjourned sine die in 85 cases, and 260 cases were pending at March 31, 1990.

In 542 or 77 percent of the 700* dispositions, voluntary settlements and withdrawals of the complaint were secured by labour relations officers (Table 4), remedial orders were issued by the Board in 17 cases, 117 cases were dismissed, and proceedings were terminated in the remaining 24 cases.

In the cases settled by labour relations officers and those in which Board awards were made, compensation amounting to about \$474,965 was made to aggrieved employees, as well as offers of reinstatement in many cases. In the 17 cases in which violations of the Act were found by the Board, employers and unions were ordered to pay compensation to six employees for wages and benefits lost in a specified period, and four of these employees were also ordered reinstated.

In addition, employers in 10 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 three 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 1989-90, the Board received 881 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, failure to deduct union dues, and alleged violation of the subcontracting and hiring arrangements in the collective agreement.

In addition to the cases received, 112 were carried over from 1988-89. Of the total 993 processed, 549 were disposed of, proceedings were adjourned sine die in 282 cases, and 162 were pending at March 31, 1990.

In 479 or 87 percent of the 549 dispositions, voluntary settlements and withdrawals of the grievance were obtained by labour relations officers (Table 4), awards were made by the Board in 37 cases, 15 cases were dismissed, and proceedings were terminated in the remaining 18 cases.

* Includes 5 cases under the *Colleges Collective Bargaining Act*.

Payments totalling about \$1,572,349 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 1989-90, one application was dealt with under section 11 of the Act in which the union sought access to the employer's property. Access was granted.

Religious Exemption

Fourteen 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. Three applications were granted, five were dismissed, three withdrawn or settled, and three were pending at March 31, 1990.

Early Termination of Collective Agreements

Twenty-nine applications were processed under section 52(3) of the Act, seeking early termination of collective agreements. Consent was granted in 23 cases, one was dismissed, two were withdrawn, proceedings were terminated in one case, and two were pending at March 31, 1990.

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. One case was granted, four cases were withdrawn, proceedings were terminated in one case, and one was pending at March 31, 1990.

Jurisdictional Disputes

Sixty-seven complaints were dealt with under section 91 of the Act involving union work jurisdiction. An assignment of the work in dispute was made by the Board in two cases, six cases were dismissed, 15 were settled or withdrawn, proceedings were terminated in seven cases, adjourned sine die in six, and 31 cases were pending at March 31, 1990.

Determination of Employee Status

The Board dealt with 84 applications under section 106(2) of the Act, seeking decisions on the status of individuals as employees under the Act. Forty-two cases were settled or withdrawn by the parties in discussions with labour relations officers. Determinations were made by the Board in six cases, in which 53 of the 110 persons in dispute were found to be employees under the Act. Five cases were dismissed, proceedings were terminated in three cases, adjourned sine die in three cases, and 25 cases were pending at March 31, 1990.

Referrals by Minister of Labour

In 1989-90, the Board dealt with two 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. Both cases were pending at March 31, 1990.

One case was 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 case was terminated.

Trusteeship Reports

Two statements were 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.

In 1989-90, the Board received 21 applications for directions to settle first agreements by arbitration. Directions were issued in four cases, eight cases were settled or withdrawn, proceedings were terminated or adjourned sine die in two cases and seven were pending at March 31, 1990.

Arbitration Provision

One application was made under section 44 (3) asking the Board to modify the arbitration provision in a collective agreement. The case was dismissed.

Determination of Sector in the Construction Industry

Two applications were made under section 150 asking the Board to determine whether construction work in question was within the industrial-commercial-institutional sector. Both cases were pending at March 31, 1990.

Occupational Health and Safety Act and Environmental Protection Act

In 1989-90, the Board received 63 complaints under section 24 of the *Occupational Health and Safety Act*, and one complaint under section 134(b) of the *Environmental Protection Act*, alleging wrongful discipline or discharge for acting in compliance with the Acts. Seventy-four cases were carried over from 1988-89.

Of the total 56 cases processed, 46 were settled or withdrawn by the parties in discussions with labour relations officers. One case was granted, four were dismissed, proceedings were terminated or adjourned sine die in 10 cases, and the remaining 77 were pending at March 31, 1990.

Colleges Collective Bargaining Act

Ten complaints were dealt with under section 78 of the *Colleges Collective Bargaining Act*, alleging contraventions of the Act. One case was dismissed, four were settled or withdrawn, one was adjourned sine die, and four were pending at March 31, 1990.

Four applications were dealt with under section 82 of the Act for decisions on the status of individuals as employees under the Act. Determinations were made by the Board in one case, in which five persons in dispute were not included in the bargaining unit, two were settled, and one was pending at March 31, 1990.

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

VII 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 layperson'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* are available through annual subscriptions, (January - December issues inclusive) currently priced at \$125.00. Individual copies of the Report may be purchased at the Government of Ontario Bookstore. Order forms for subscriptions are available from the Board.

VIII STAFF AND BUDGET

At the end of the fiscal year 1989-90, the Board employed a total of 118 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 \$8,548,300.

IX STATISTICAL TABLES

The following statistics are indicative of the activities of the Ontario Labour Relations Board during the fiscal year 1989-90.

- Table 1: Total Applications and Complaints Received, Disposed of and Pending, Fiscal Year 1989-90.
- Table 2: Applications and Complaints Received and Disposed of, Fiscal Years 1985-86 to 1989-90.
- Table 3: Labour Relations Officer Activity in Cases Processed, Fiscal Year 1989-90.
- Table 4: Labour Relations Officer Settlements in Cases Disposed of Fiscal Year 1989-90.
- Table 5: Results of Representation Votes Conducted, Fiscal Year 1989-90.
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- Table 8: Union Distribution of Certification Applications Received and Disposed of, Fiscal Year 1989-90.
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- Table 12: Employment Status of Employees in Bargaining Units Certified, by Industry, Fiscal Year 1989-90.
- Table 13: Employment Status of Employees in Bargaining Units Certified, by Union, Fiscal Year 1989-90.
- Table 14: Occupational Groups in Bargaining Units Certified, by Industry, Fiscal Year 1989-90.
- Table 15: Occupational Groups in Bargaining Units Certified, by Union, Fiscal Year 1989-90.

Table 1

**Total Applications and Complaints Received, Disposed of and Pending
Fiscal Year 1989-90**

Type of Case	Caseload		Disposed of, Fiscal Year 1989-90							Pending March 31, 1990	
	Total April 1, 89	Pending April 1, 89	Received Fiscal Year 1989-90	Total Granted*	Dismissed	Termi- nated	With- drawn	Settled	Sine Die		
Total	4,213	926	3,287	2,685	792	322	108	639	824	493	1,035
Certification of Bargaining Agents	1,137	227	910	880	573	117	30	160	—	31	226
Declaration of Termination of Bargaining Rights	197	30	167	132	69	33	3	26	1	3	62
Declaration of Successor Trade Union	23	10	13	23	17	—	4	2	—	—	—
Declaration of Successor Employer or Common Employer Status	350	149	201	143	21	12	6	23	81	57	150
Accreditation	6	6	—	1	1	—	—	—	—	—	5
Declaration of Unlawful Strike	11	—	11	8	1	—	—	5	2	—	3
Declaration of Unlawful Lockout	1	1	—	1	—	1	—	—	—	—	—
Direction respecting Unlawful Strike	63	4	59	36	13	5	3	6	9	19	8
Direction respecting Unlawful Lockout	5	—	5	4	1	—	—	2	1	—	1
Consent to Prosecute	6	1	5	3	—	—	1	1	1	—	3
Contravention of Act**	1,050	233	817	700	17	117	24	208	334	86	264
Right of Access	1	—	1	1	1	—	—	—	—	—	—
Exemption from Union Security Provision in Collective Agreement	14	1	13	11	3	5	—	2	1	—	3
Early Termination of Collective Agreement	29	2	27	27	23	1	1	2	—	—	2
Trade Union Financial Statement	7	2	5	6	1	—	1	4	—	—	1
Jurisdictional Dispute	67	40	27	30	2	6	7	11	4	6	31

(Cont'd)

Table 1 (Cont'd)

**Total Applications and Complaints Received, Disposed of and Pending
Fiscal Year 1989-90**

Type of Case	Caseload		Disposed of, Fiscal Year 1989-90							Pending March 31, 1990	
	Total	Pending April 1, 89	Total	Granted*	Dismissed	Termi- nated	With- drawn	Settled	Sine Die		
Total	4,213	926	3,287	2,685	792	322	108	639	824	493	1,035
Referral on Employee Status***	88	33	55	59	7	5	3	19	25	3	26
Referral from Minister on Appointment of Conciliation Officer or Arbitrator	2	—	2	—	—	—	—	—	—	—	2
Referral of Construction Industry Grievance	993	112	881	549	37	15	18	154	325	282	162
Referral from Minister on Construction Bargaining Agency	1	1	—	1	—	—	1	—	—	—	—
Complaint under Occupational Health and Safety Act	136	73	63	55	—	4	5	8	38	5	76
Environmental Protection Act	2	1	1	1	1	—	—	—	—	—	1
First Agreement Arbitration Direction	21	—	21	13	4	—	1	6	2	1	7
Arbitration Provision	1	—	1	1	—	1	—	—	—	—	—
Determination of Sector of Construction Work	2	—	2	—	—	—	—	—	—	—	2

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

** Total caseload includes 10 applications under *Colleges Collective Bargaining Act*.*** Includes 4 applications under *Colleges Collective Bargaining Act*.

Table 2

**Applications and Complaints Received and Disposed of
Fiscal Years 1985-86 to 1989-90**

Type of Case	Number Received in Fiscal Year					Number Disposed of in Fiscal Year						
	Total	1985-86	1986-87	1987-88	1988-89	1989-90	Total	1985-86	1986-87	1987-88	1988-89	1989-90
Total	16,908	3,236	3,577	3,563	3,225	3,287	14,936	2,912	3,371	3,112	2,856	2,685
Certification of Bargaining Agents	5,032	1,025	1,034	1,125	938	910	4,972	1,034	1,006	1,108	944	880
Declaration of Termination of Bargaining Rights	829	155	171	159	177	167	800	135	191	133	209	132
Declaration of Successor Trade Union or Employer	766	88	175	185	184	134	628	85	190	136	108	109
Declaration of Common Employer Status	458	117	123	77	61	80	403	81	147	62	56	57
Accreditation	10	—	3	1	6	—	7	1	2	1	2	1
Declaration of Unlawful Strike or Lockout	33	6	4	5	7	11	25	5	3	2	6	9
Direction Respecting Unlawful Strike or Lockout	283	52	63	49	55	64	200	36	49	35	40	40
Consent to Prosecute	37	11	8	9	4	5	33	8	8	5	9	3
Contravention of Act	4,189	855	862	868	787	817	3,834	758	891	734	751	700
Referral of Construction Industry Grievance	4,095	745	865	865	739	881	3,027	614	664	671	529	549
Miscellaneous	1,077	182	232	219	247	197	926	155	189	208	182	192
First Agreement Arbitration Direction	95	—	34	20	20	21	77	—	28	16	20	13
First Agreement Arbitration Proceedings	4	—	3	1	—	—	4	—	3	1	—	—

Table 3**Labour Relations Officer Activity in Cases Processed*
Fiscal Year 1989-90**

Type of Case	Total Cases Assigned	Cases in Which Activity Completed			Referred to Board	Sine Die	Pending
		Total	Number	Percent			
Total	2,263	1,492	1,374	92.1	118	335	436
Certification							
Interim certificate	23	15	15	100.0	—	—	8
Pre-hearing application	108	94	64	68.1	30	2	12
Other application	412	385	358	93.0	27	3	24
Contravention of Act	749	460	431	93.7	29	64	225
Construction industry grievance	876	472	453	96.0	19	263	141
Employee status	31	26	14	53.8	12	1	4
Occupational Health and Safety Act	63	40	39	97.5	1	2	21
Environmental Protection Act	1	—	—	—	—	—	1

* 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 1989-90**

Type of Case	Total Disposed of	Officer Settlements	
		Number	Percent of Dispositions
Total	1,363	1,111	81.4
Contravention of Act	700	542	77.4
Construction industry grievance	549	479	87.2
Employee status	59	44	74.5
Occupational Health and Safety Act	55	46	83.6

* 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 1989-90**

Type of Case	Number of Votes	Eligible Employees	Ballots Cast	
			Total	In Favour of Unions
Total	181	14,881	11,529	5,692
Certification	131	13,364	10,164	5,326
Pre-Hearing Cases				
One Union	35	4,418	2,738	1,514
Two Unions	36	5,255	4,251	2,471
Construction Cases				
One Union	5	56	54	15
Two Unions	1	2	2	2
Regular Cases				
One Union	52	3,487	2,990	1,238
Two Unions	2	146	129	86
Termination of Bargaining Rights	46	1,089	994	245
Successor Employer				
One Union	3	170	144	25
Two Unions	1	258	227	96

* 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 1989-90**

Type of Case	Number of Votes			Eligible Votes			All Ballots Cast			Ballots Cast in Favour of Unions			
	Total	Won	Lost	Total	In Votes		Total	Total	In Votes		Total	Won	Lost
					Won	Lost			Won	Lost			
Total	191	92	99	14,376	7,282	7,094	11,402	5,353	6,049	5,502	3,615	1,887	
Certification	148	88	60	13,150	7,202	5,948	10,320	5,281	5,039	5,225	3,568	1,657	
Pre-hearing Cases													
One Union	42	25	17	4,330	2,361	1,969	2,751	1,186	1,565	1,441	924	517	
Two Unions	41	37	4	4,700	3,212	1,488	3,976	2,734	1,242	2,217	1,815	402	
Construction Cases													
One Union	6	3	3	57	11	46	55	11	44	16	11	5	
Two Unions	1	1	—	2	2	—	2	2	—	2	2	—	
Regular Cases													
One Union	56	21	35	3,915	1,520	2,395	3,407	1,259	2,148	1,463	740	723	
Two Unions	2	1	1	146	96	50	129	89	40	86	76	10	
Termination of Bargaining Rights	40	4	36	816	80	736	724	72	652	163	47	116	
Successor Employer													
One Union	2	—	2	152	—	152	131	—	131	18	—	18	
Two Unions	1	—	1	258	—	258	227	—	227	96	—	96	

* 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 1989-90

Time Taken (Calendar Days)	All Cases		Certification Cases		Section 89 Cases		Section 124 Cases		All Other Cases	
	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent	Dispo- sitions	Cumu- lative Percent
Total	2,685	100.0	890	100.0	700	100.0	549	100.0	556	100.0
Under 8 days	70	2.6	10	1.1	22	3.1	4	0.7	34	6.1
8-14 days	209	10.4	30	4.5	34	8.0	133	25.0	12	8.3
15-21 days	282	20.9	74	13.0	46	14.6	143	51.0	19	11.7
22-28 days	295	31.9	179	33.3	48	21.4	31	56.6	37	18.6
29-35 days	227	40.3	116	46.5	56	29.4	19	60.1	36	24.8
36-42 days	181	47.1	70	54.4	64	38.6	12	62.3	35	31.1
43-49 days	163	53.1	48	59.9	62	47.4	20	65.9	33	37.1
50-56 days	118	57.4	40	64.4	32	52.0	20	69.6	26	41.7
57-63 days	91	60.9	31	68.0	30	56.3	12	71.8	18	45.0
64-70 days	82	64.0	38	72.3	17	58.7	11	73.8	16	47.8
71-77 days	92	67.4	31	75.8	21	61.7	15	76.5	25	52.3
78-84 days	74	70.2	19	78.0	26	65.4	10	78.3	19	55.8
85-91 days	54	72.7	18	80.0	17	67.9	6	79.4	13	58.1
92-98 days	41	73.7	9	81.0	11	69.4	7	80.7	14	60.6
99-105 days	51	75.6	11	82.3	21	72.4	10	82.5	9	62.2
106-126 days	115	79.9	28	85.5	38	77.9	17	85.6	32	68.0
127-147 days	84	83.0	17	87.4	28	81.9	10	87.4	29	73.2
148-168 days	52	84.9	18	89.4	15	84.0	7	88.7	12	75.4
over 168 days	404	100.0	93	100.0	112	100.0	62	100.0	137	100.0

Table 8

**Union Distribution of Certification Applications Received and Disposed of
Fiscal Year 1989-90**

Union	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed**	Withdrawn
All Unions	910	880	573	147	160
CLC* Affiliates	385	362	255	55	52
Aluminum Brick & Glass Wkrs.	2	2	—	1	1
Brewery and Soft Drink Wkrs.	1	2	2	—	—
Canadian Auto Workers	34	34	25	6	3
Canadian Paperworkers	11	8	8	—	—
Canadian Public Employees (CUPE)	61	59	42	6	11
Clothing and Textile Workers	2	2	1	1	—
Communications Workers (Amer)	3	3	3	—	—
Electrical Workers (UE)	2	1	1	—	—
Energy and Chemical Workers	9	9	5	2	2
Food and Commercial Workers	33	33	23	7	3
Glass, Molders and Allied Wkrs.	1	1	—	1	—
Graphic Communications Union	12	8	7	1	—
Hotel Employees	7	8	8	—	—
IWA-Canada	6	—	—	—	—
Ladies Garment Workers	2	2	1	1	—
Machinists	10	10	4	3	3
Newspaper Guild	8	9	9	—	—
Office and Professional Employees	3	2	2	—	—
Ontario Public Service Employees	20	22	18	2	2
Postal Workers	2	1	1	—	—
Railway, Transport and General Workers	4	4	—	2	2
Retail Wholesale Employees	25	23	16	4	3
Rubber Workers	1	1	—	—	1
Service Employees International	46	50	35	5	10
Theatrical Stage Employees	3	2	1	1	—
Transit Union (Intl.)	5	6	3	1	2
United Paperworkers	1	2	—	2	—
United Steelworkers	64	48	34	7	7
United Textile Workers	1	1	1	—	—
Woodworkers	6	9	5	2	2

* Canadian Labour Congress.

** Includes cases that were terminated.

Table 8 (Cont'd)

**Union Distribution of Certification Applications Received and Disposed of
Fiscal Year 1989-90**

Union	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed**	Withdrawn
All Unions	910	880	573	147	160
Non-CLC Affiliates	525	518	318	92	108
Allied Health Professionals	3	3	3	—	—
Asbestos Workers	—	1	—	1	—
Auto Workers	2	2	2	—	—
Boilermakers	4	6	4	1	1
Bricklayers International	2	5	1	4	—
Carpenters	81	77	46	9	22
Canadian Operating Engineers	5	2	2	—	—
Canadian Transit Union	9	13	11	1	1
Christian Labour Association	12	10	8	1	1
Communications & Allied Workers	1	1	—	—	1
Electrical Workers (IBEW)	28	33	17	6	10
Engineers Association	1	1	—	—	1
Film Craftspeople	2	2	—	—	2
Guards Association	—	1	1	—	—
Independent Local Union	38	34	15	9	10
International Operating Engineers	31	36	28	3	5
Labourers	156	132	82	23	27
Ontario English Catholic Teachers	2	2	1	1	—
Ontario Nurses Association	5	6	6	—	—
Ontario Public School Teachers	6	8	7	1	—
Ontario Secondary School Teachers	22	18	14	4	—
Painters	26	26	16	4	6
Plant Guard Workers	6	6	6	—	—
Plumbers	18	21	11	5	5
Sheet Metal Workers	6	9	4	3	2
Structural Iron Workers	7	11	4	2	5
Sudbury Mine Workers	2	1	1	—	—
Teamsters	40	43	27	8	8
Textile Processors	10	8	1	6	1

Table 9

**Industry Distribution of Certification Applications Received and Disposed of
Fiscal Year 1989-90**

Industry	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed*	Withdrawn
All Industries	910	880	573	147	160
Manufacturing	179	165	104	40	21
Food, beverage	24	25	16	8	1
Tobacco products	—	—	—	—	—
Rubber, plastics	10	7	4	1	2
Leather	3	3	1	—	2
Textile	5	5	4	1	—
Knitting mills	1	1	1	—	—
Clothing	3	2	1	1	—
Wood	16	18	12	4	2
Furniture and fixtures	8	9	4	4	1
Paper	7	5	2	2	1
Printing, publishing	23	18	16	1	1
Primary metals	1	1	1	—	—
Fabricated metals	23	21	15	3	3
Machinery	8	8	4	2	2
Transportation equipment	16	19	11	6	2
Electrical products	6	7	4	1	2
Non-metallic minerals	6	5	5	—	—
Petroleum, coal	—	1	—	1	—
Chemicals	2	1	—	1	—
Other manufacturing	17	9	3	4	2
Non-Manufacturing	731	715	469	107	139
Agriculture	—	—	—	—	—
Forestry	—	—	—	—	—
Fishing, trapping	—	—	—	—	—
Mining, quarrying	7	7	5	2	—
Transportation	29	38	22	6	10
Storage	2	2	2	—	—
Communications	3	2	1	—	1
Electric, gas, water	12	12	8	2	2
Wholesale trade	23	21	14	3	4
Retail trade	26	25	18	5	2
Finance, insurance	3	2	2	—	—
Real Estate	21	16	14	—	2
Education and related services	83	97	48	35	14
Health and welfare services	110	114	90	9	15
Religious organizations	2	2	—	1	1
Recreational services	10	6	2	2	2
Management services	20	10	6	—	4

Table 9 (Cont'd)**Industry Distribution of Certification Applications Received and Disposed of
Fiscal Year 1989-90**

Industry	Number of Appli- cations Received	Number of Applications Disposed of			
		Total	Certified	Dismissed*	Withdrawn
All Industries	910	880	573	147	160
Personal services	4	3	2	1	—
Accommodation, food services	27	27	17	6	4
Other services	24	27	22	1	4
Federal government	1	1	—	1	—
Provincial government	—	—	—	—	—
Local government	16	18	13	2	3
Other government	—	—	—	—	—
Construction	308	285	183	31	71

* Includes cases that were terminated.

Table 10**Size of Bargaining Units in Certification Applications Granted
Fiscal Year 1989-90**

Employee Size*	Total		Construction**		Non-Construction	
	Number of Appli- cations	Number of Em- ployees	Number of Appli- cations	Number of Em- ployees	Number of Appli- cations	Number of Em- ployees
Total	573	17,184	183	1,278	390	15,906
2-9 employees	242	1,047	150	597	92	450
10-19 employees	131	1,811	24	312	107	1,499
20-39 employees	95	2,690	6	170	89	2,520
40-99 employees	77	4,684	3	199	74	4,485
100-199 employees	18	2,574	—	—	18	2,574
200-499 employees	9	2,834	—	—	9	2,834
500 employees or more	1	1,544	—	—	1	1,544

* Refers to the total number of employees in one or more bargaining units certified in an application. A total of 613 bargaining units were certified in the 573 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 183 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 1989-90**

Calendar Days (including adjournments requested by the parties)	Total Certified		Non-Construction		Construction	
	Number	Cumulative Percent	Number	Cumulative Percent	Number	Cumulative Percent
Total	573	100.0	391	100.0	182	100.0
Under 8 days	1	0.2	—	—	1	0.5
8-14 days	12	2.3	—	—	12	7.1
15-21 days	44	9.9	4	1.0	40	29.1
22-28 days	139	34.2	109	28.9	30	45.6
29-35 days	103	52.2	87	51.2	16	54.4
36-42 days	54	61.6	46	62.9	8	58.8
43-49 days	31	67.0	23	68.8	8	63.2
50-56 days	26	71.6	17	73.1	9	68.1
57-63 days	22	75.4	18	77.7	4	70.3
64-70 days	18	78.5	9	80.1	9	75.3
71-77 days	19	81.8	15	83.9	4	77.5
78-84 days	10	83.6	8	85.9	2	78.6
85-91 days	7	84.8	4	87.0	3	80.2
92-98 days	4	85.5	2	87.5	2	81.3
99-105 days	7	86.7	6	89.0	1	81.9
106-126 days	18	89.9	12	92.1	6	85.2
127-147 days	11	91.8	9	94.4	2	86.3
148-168 days	12	93.9	6	95.9	6	89.6
over 168 days	35	100.0	16	100.0	19	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 1989-90

Industry	All Units		Full-time		Part-time		Employment Status		Full-time and Part-time		All Employees No Exclusion Specified	
	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.
All Industries	613	17,184	134	4,437	29	1,574	91	5,025	359	6,148		
Manufacturing	107	7,140	41	2,096	—	—	23	3,267	43	1,777		
Food, Beverage	16	317	9	127	—	—	3	58	4	132		
Rubber, Plastics	5	184	1	10	—	—	2	112	2	62		
Leather	1	6	—	—	—	—	—	—	—	6		
Textile	4	57	1	2	—	—	2	32	1	23		
Knitting Mills	1	57	—	—	—	—	—	—	1	57		
Clothing	1	153	—	—	—	—	1	153	—	—		
Wood	12	552	5	339	—	—	2	86	5	127		
Furniture and Fixtures	4	354	2	233	—	—	—	—	2	121		
Paper	2	67	—	—	—	—	1	14	1	53		
Printing, Publishing	18	720	11	347	—	—	3	41	4	332		
Primary Metals	1	11	—	—	—	—	—	—	1	11		
Fabricated Metals	15	2,423	6	591	—	—	3	1,589	6	243		
Machinery	4	574	2	63	—	—	1	492	1	19		
Transportation Equipment	11	1,328	3	380	—	—	3	584	5	364		
Electrical Products	4	136	1	4	—	—	1	90	2	42		
Non-metallic Minerals	5	102	—	—	—	—	1	16	4	86		
Other Manufacturing	3	99	—	—	—	—	—	—	3	99		

Table 12 (Cont'd)

Employment Status of Employees in Bargaining Units Certified by Industry

Fiscal Year 1989-90

Industry	All Units		Full-time		Part-time		Employment Status		Full-time and Part-time		All Employees No Exclusion Specified	
	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.	Number	Emps.
All Industries	613	17,184	134	4,437	29	1,574	91	5,025	359	6,148		
Non-Manufacturing	506	10,044	93	2,341	29	1,574	68	1,758	316	4,371		
Mining, Quarrying	5	329	1	37	—	—	4	292	—	—	—	—
Transportation	23	789	7	121	1	50	1	2	14	616	—	—
Storage	2	14	1	11	—	—	—	—	—	1	3	—
Communications	1	17	—	—	—	—	1	17	—	—	—	—
Electric, Gas, Water	8	157	5	147	—	—	1	2	2	8	—	—
Wholesale Trade	16	242	4	80	1	3	4	55	7	104	—	—
Retail Trade	22	461	9	126	1	11	9	295	3	29	—	—
Finance, Insurance Carriers	2	17	—	—	—	—	—	—	—	2	17	—
Real Estate, Insurance Agencies	14	106	4	29	2	8	2	19	6	50	—	—
Education and Related Services	48	2,475	8	476	14	1,388	4	208	22	403	—	—
Health and Welfare Services	115	2,805	35	889	8	98	29	663	43	1,155	—	—
Recreational Services	2	15	—	—	—	—	—	—	2	15	—	—
Management Services	6	279	3	208	—	—	—	—	3	71	—	—
Personal Services	2	57	1	10	—	—	—	—	—	1	47	—
Accommodation, Food Services	18	325	6	67	—	—	7	102	5	156	—	—
Other Services	24	399	5	60	—	—	2	14	17	325	—	—
Local Government	14	211	4	80	2	16	4	89	4	26	—	—
Construction	184	1,346	—	—	—	—	—	—	184	1,346	—	—

Table 13
Employment Status of Employees in Bargaining Units Certified by Union
Fiscal Year 1989-90

Unions	All Units		Employment Status				Full-time and Part-time		All Employees No Exclusion Specified	
	Number	Empls.	Full-time		Part-time		Number	Empls.	Number	Empls.
			Number	Empls.	Number	Empls.				
All Unions	613	17,184	134	4,437	29	1,574	91	5,025	359	6,148
CLC Affiliates	283	11,315	91	3,056	7	55	72	4,742	113	3,462
Brewery and Soft Drink Workers	2	13	1	10	—	—	—	—	1	3
Canadian Auto Workers	25	4,132	8	858	—	—	6	2,730	11	544
Canadian Paperworkers	8	300	2	208	—	—	2	35	4	57
Canadian Public Employees (CUPE)	47	1,413	14	340	1	20	11	474	21	579
Clothing and Textile Workers	1	75	1	75	—	—	—	—	—	—
Electrical Workers (UE)	1	4	1	4	—	—	—	—	—	—
Energy and Chemical Workers	7	82	2	32	—	—	2	20	3	30
Food and Commercial Workers	27	483	12	116	1	11	8	233	6	123
Graphic Communications Union	7	388	3	23	—	—	—	—	4	365
Hotel Employees	8	203	3	38	—	—	3	44	2	121
Ladies Garment Workers	1	27	1	27	—	—	—	—	—	—
Machinists	4	102	—	—	—	—	2	45	2	57
Newspaper Guild	11	357	8	316	—	—	3	41	—	—
Office and Professional Employees	2	97	1	86	—	—	—	—	1	11
Ontario Public Service Employees	25	597	9	184	—	—	7	113	9	300
Postal Workers	1	7	1	7	—	—	—	—	—	—
Retail Wholesale Employees	17	333	8	135	—	—	5	130	4	68
Service Employees International	42	873	10	300	3	10	12	195	17	368
Theatrical Stage Employees	1	3	—	—	—	—	—	—	1	3
Transit Union (International)	3	42	1	12	1	11	—	—	1	19
United Steelworkers	37	1,589	4	248	1	3	10	655	22	683
United Textile Workers	1	57	—	—	—	—	—	—	1	57
Woodworkers	5	138	1	37	—	—	1	27	3	74

Table 14

**Occupational Groups in Bargaining Units Certified by Industry
Fiscal Year 1989-90**

Industry	All Groups		Production & Related		Office, Clerical & Technical		Occupational Group			
	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Professional	Sales	Other	Number Empls.
All Industries	613	17,184	470	13,138	47	657	41	8	47	1,457
Manufacturing	107	7,140	90	6,836	10	93	1	15	6	196
Food, Beverage	16	317	10	261	5	41	1	15	—	—
Rubber, Plastics	5	184	5	184	—	—	—	—	—	—
Leather	1	6	—	—	1	6	—	—	—	—
Textile	4	57	4	57	—	—	—	—	—	—
Knitting Mills	1	57	1	57	—	—	—	—	—	—
Clothing	1	153	1	153	—	—	—	—	—	—
Wood	12	552	11	547	1	5	—	—	—	—
Furniture and Fixtures	4	354	4	354	—	—	—	—	—	—
Paper	2	67	2	67	—	—	—	—	—	—
Printing, Publishing	18	720	14	619	—	—	—	—	—	101
Primary Metals	1	11	1	11	—	—	—	—	—	—
Fabricated Metals	15	2,423	14	2,411	1	12	—	—	—	—
Machinery	4	574	3	551	1	23	—	—	—	—
Transportation Equipment	11	1,328	10	1,322	1	6	—	—	—	—
Electrical Products	4	136	2	41	—	—	—	—	—	95
Non-metallic Minerals	5	102	5	102	—	—	—	—	—	—
Other Manufacturing	3	99	3	99	—	—	—	—	—	—

Table 15

**Occupational Groups in Bargaining Units Certified by Union
Fiscal Year 1989-90**

Unions	All Groups		Production & Related		Office, Clerical & Technical		Occupational Group				
	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Professional	Sales	Other	Number Empls.	
All Unions	613	17,184	470	13,138	47	657	41	8	101	47	1,457
CLC Affiliates	283	11,315	198	9,322	32	418	8	111	8	37	1,363
Brewery and Soft Drink Workers	2	13	1	10	1	3	—	—	—	—	—
Canadian Auto Workers	25	4,132	22	4,106	3	26	—	—	—	—	—
Canadian Paperworkers	8	300	6	286	2	14	—	—	—	—	—
Canadian Public Employees (CUPE)	47	1,413	25	781	10	191	2	12	—	10	429
Clothing and Textile Workers	1	75	1	75	—	—	—	—	—	—	—
Electrical Workers (UE)	1	4	1	4	—	—	—	—	—	—	—
Energy and Chemical Workers	7	82	4	46	2	9	—	—	—	1	27
Food and Commercial Workers	27	483	15	259	4	24	—	3	24	5	176
Graphic Communications Union	7	388	7	388	—	—	—	—	—	—	—
Hotel Employees	8	203	8	203	—	—	—	—	—	—	—
Ladies Garment Workers	1	27	1	27	—	—	—	—	—	—	—
Machinists	4	102	4	102	—	—	—	—	—	—	—
Newspaper Guild	11	357	8	267	—	—	—	—	—	3	90
Office and Professional Employees	2	97	—	—	1	11	—	—	—	1	86
Ontario Public Service Employees	25	597	12	242	3	36	4	75	—	6	244
Postal Workers	1	7	1	7	—	—	—	—	—	—	—
Retail Wholesale Employees	17	333	9	204	2	30	—	—	4	2	49
Service Employees International	42	873	33	685	2	15	2	24	—	5	149
Theatrical Stage Employees	1	3	1	3	—	—	—	—	—	—	—
Transit Union (International)	3	42	2	30	—	—	—	—	—	1	12
United Steelworkers	37	1,589	32	1,429	2	59	—	—	—	3	101
United Textile Workers	1	57	1	57	—	—	—	—	—	—	—
Woodworkers	5	138	4	111	—	—	—	—	1	—	—

Table 15 (Cont'd)

Occupational Groups in Bargaining Units Certified by Union
Fiscal Year 1989-90

Unions	Occupational Group											
	All Groups	Production & Related	Office, Clerical & Technical	Professional	Sales	Other						
	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.	Number Empls.						
Non-CLC Affiliates	330	5,969	272	3,816	15	239	33	1,720	—	—	10	94
Allied Health Professionals	5	45	3	23	2	22	—	—	—	—	—	—
Boilermakers	4	74	4	74	—	—	—	—	—	—	—	—
Bricklayers International	1	3	1	3	—	—	—	—	—	—	—	—
Carpenters	47	463	47	463	—	—	—	—	—	—	—	—
Canadian Operating Engineers	2	45	1	28	—	—	—	—	—	—	1	17
Canadian Transit Union	11	280	5	239	—	—	4	29	—	—	2	12
Christian Labour Association	9	121	9	121	—	—	—	—	—	—	—	—
Communications Workers (AMER)	3	61	2	50	—	—	—	—	—	—	1	11
Electrical Workers (IBEW)	18	163	15	123	1	4	—	—	—	—	2	36
Guards Association	1	128	1	128	—	—	—	—	—	—	—	—
Independent Local Union	15	415	6	171	5	126	2	108	—	—	2	10
International Operating Engineers	28	312	27	297	—	—	1	15	—	—	—	—
Labourers	82	669	82	669	—	—	—	—	—	—	—	—
Ontario English Catholic Teachers	1	118	—	—	—	—	1	118	—	—	—	—
Ontario Nurses Association	9	165	—	—	—	—	9	165	—	—	—	—
Ontario Public School Teachers	7	1,101	—	—	—	—	7	1,101	—	—	—	—
Ontario Secondary School Teachers	14	377	2	150	3	43	9	184	—	—	—	—
Painters	16	125	16	125	—	—	—	—	—	—	—	—
Plant Guard Workers	6	100	6	100	—	—	—	—	—	—	—	—
Plumbers	12	132	12	132	—	—	—	—	—	—	—	—
Sheet Metal Workers	4	33	4	33	—	—	—	—	—	—	—	—
Structural Iron Workers	4	23	4	23	—	—	—	—	—	—	—	—
Sudbury Mine Workers	1	4	—	—	—	—	—	—	—	—	1	4
Teamsters	27	798	23	777	3	17	—	—	—	—	1	4
Textile Processors	1	47	1	47	—	—	—	—	—	—	—	—
United Auto Workers	2	67	1	40	1	27	—	—	—	—	—	—