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**Annual Report
1992 - 93**

**Saskatchewan
Labour Relations Board**



Government of
Saskatchewan

Annual Report 1992 - 93

Saskatchewan Labour Relations Board

for the fiscal year ending March 31, 1993

Published by Authority of
The Honourable Ned Shillington
Minister of Labour



Letters of Transmittal

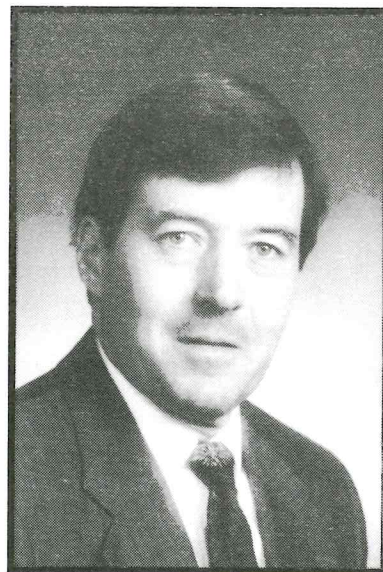
The Honourable Sylvia Fedoruk
Lieutenant Governor
Province of Saskatchewan

May it Please Your Honour:

I respectfully submit the Annual Report
of the Saskatchewan Labour Relations Board
for the fiscal year ending March 31, 1993.

Ned Shillington

Hon. Ned Shillington
Minister of Labour



Hon. Ned Shillington
Minister of Labour
Province of Saskatchewan

Dear Sir:

It is my pleasure to provide you with
the Annual Report of the Saskatchewan Labour
Relations Board. It covers the period
commencing April 1, 1992 and ending March 31, 1993.

Sincerely,

Beth Bilson

Beth Bilson
Chair
Labour Relations Board



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I. Labour Relations Board

The Labour Relations Board came into existence in 1944 with passage of *The Trade Union Act*, S.S. 1944 (2nd Sess.) c. 69. Although the Act was amended in subsequent years, the basic concept of the board has not changed. Then, as now, the board is an independent, quasi-judicial tribunal charged with the responsibility of adjudicating disputes that arise under *The Trade Union Act*. It does this principally through public hearings and its written decisions. The board's decisions are final and binding upon the parties. There is no appeal, and review by the courts is strictly limited.

The Act presently provides for a board composed of five members, and an unspecified number of alternate members. All members and alternate members of the board are appointed by the Lieutenant Governor in Council. The chair and vice-chair are full-time members of the board. The remaining members and alternate members are not full-time employees of the board. They are appointed and paid on a per diem basis when their services are required. The board is a representational board. This means all members of the board, with the exception of the chair, are representatives of employees or employers. The chair is neutral and, with only one exception, has always been a lawyer.

The board reports to the Minister of Labour for the Province of Saskatchewan. The Minister is obligated by *The Trade Union Act* to provide the board with the requisite staff and facilities. Otherwise, the board operates independently from the government, its departments and agencies.

The board's offices and staff are located in Regina, although the board maintains a hearing room in Saskatoon. The staff of the board is composed of the executive officer (the duties of which have been assumed by the vice-chair), the board secretary and three clerical positions. An Organizational Chart of the Labour Relations Board is contained in Table I.

The composition of the board during the year covered by this report was:

Beth Bilson - Chair

Beth Bilson was appointed to chair the Saskatchewan Labour Relations Board in July of 1992. Ms. Bilson has undergraduate and graduate degrees in history and law from the University of Saskatchewan and the University of London, and has been a member of the faculty of the College of Law at the University of Saskatchewan since 1979. While at the University of Saskatchewan, she served as senior grievance officer of the University of Saskatchewan Faculty Association, and as assistant vice-president (Administration), a position which included responsibility for faculty industrial relations and campus health and safety. She has taught and written in the field of labour law, and has served as chair on a number of arbitration boards. Ms. Bilson resides in Regina.

John R. B. Hobbs - Vice-Chair

John Hobbs graduated from the College of Law, University of Saskatchewan, in 1975. Following graduation, Mr. Hobbs practised law in Regina until joining the board in 1985 as vice-chair. He is the board's first legally trained vice-chair. He also fills the role of executive officer. Mr. Hobbs resides in Regina.

Bruce McDonald

Bruce McDonald was appointed to the board as an alternate member in 1974 and as a member in 1977. Mr. McDonald is the business agent for the International Brotherhood of Painters and Allied Trades, Local Union 1996. He is a past president of the Canadian Federation of Labour. Mr. McDonald resides in Saskatoon.

John Forsyth

John Forsyth was appointed to the board in 1975 as an employer representative. Although Mr. Forsyth is now retired, he was formerly the manager of Sherwood Co-operative Association Ltd. Mr. Forsyth resides in Regina.

Jill Jones

Jill Jones was appointed to the board as an alternate member representing employees in 1984. Mrs. Jones is a former president of the Saskatchewan Union of Nurses. Mrs. Jones resides in Regina.

Jim Tomlinson

Jim Tomlinson was appointed to the board as an alternate member representing employers in 1986. Mr. Tomlinson is a former general manager of Graham Construction Ltd. Mr. Tomlinson resides in Moose Jaw.

John MacLeod

John MacLeod was first appointed to the board in 1979 as an alternate member representing employees. Mr. MacLeod was recently re-appointed in the same capacity. Mr. MacLeod is the business agent for the International Brotherhood of Electrical Workers. He resides in Regina.

Jack Hansen

Jack Hansen was appointed to the board in March, 1992 as an alternate member representing employers. Mr. Hansen is vice-president and general manager of Conforce Structures Saskatchewan Region. Mr. Hansen is director of the Saskatchewan Construction Labour Relations Council and is past chairman of the Saskatchewan Construction Association. Mr. Hansen resides in Regina.

Diane Pitchford

Diane Pitchford was appointed to the board in March 1992 as an alternate member representing employees. Ms. Pitchford is vice-president of Local 2, Communication and Electrical Workers of Canada. She resides in Saskatoon.

Carolyn Jones

Carolyn Jones was appointed to the board in March 1992. Ms. Jones is a staff representative with United Food and Commercial Workers Local 1400 and has been since 1981. She served for four years as vice-president of the Saskatchewan Federation of Labour and has been active on several of its committees and in the labour movement generally. Ms. Jones resides in Saskatoon.

Ken Hutchinson

Ken Hutchinson was appointed to the board in March 1992 as an alternate member representing employers. Mr. Hutchinson previously served on the board from 1977 to 1986 in the same capacity. Mr. Hutchinson was the administrator of personnel services at the Regina General Hospital until he retired and was also a director of industrial relations for the Saskatchewan Hospital Association. He resides in Regina.

Kathleen Joyner

Kathleen Joyner was appointed to the board in 1990 as an alternate member representing employers. Mrs. Joyner is the president of a retail corporation and manages several clothing stores. She resides in Moose Jaw.

David Maki

David Maki was appointed to the board in March, 1992 as an alternate member representing employees. Mr. Maki is a business representative for the Office and Professional Employees International Union. He resides in Regina.

Elaine Bambury

Elaine Bambury was appointed to the board in 1990 as an alternate member representing employers. Mrs. Bambury is employed as an administrator at the Wolseley Union Hospital. She resides in Wolseley.

Gloria Cymbalisky

Gloria Cymbalisky was appointed to the board in March 1992 as an alternate member representing employees. Ms. Cymbalisky is self-employed in an industrial relations consulting firm. She was formerly a representative for the Saskatchewan Joint Board, Retail, Wholesale and Department Store Union. She resides in Regina.

II. The Trade Union Act

In Canada, legislative jurisdiction over industrial relations has, since a ruling of the Supreme Court of Canada in 1925, fallen largely under provincial jurisdiction. Fortunately the potential this presented for legal fragmentation was offset by varying combinations of interprovincial management and union structures, common history and common day-to-day economic and political conditions. The result is a remarkable commonality of core principles and procedures in all 11 Canadian jurisdictions.

The main features of *The Trade Union Act*, like its counterparts in all other Canadian jurisdictions, may be summarized as follows:

- traditional courts are replaced by a specialized, quasi-judicial tribunal with exclusive and binding jurisdiction over the matters assigned to it by *The Trade Union Act*;
- common law of conspiracy and restraint of trade is abolished insofar as it applies to employees who bargain collectively;
- majority of employees determine for all employees in a group whether they will bargain collectively and, if so, through which union;
- an employer is required to recognize the union chosen by the majority of its employees as their exclusive representative for the purpose of bargaining collectively;
- the employer and the union are required to bargain in good faith with a view to concluding a collective bargaining agreement;

- a number of unfair labour practices are created to protect employees and unions from any attempt by the employer to interfere with their rights;
- strike and lock-out activity is regulated, but not prohibited;
- specific issues, such as union security, technological change, conciliation, voting procedures and religious exclusions are addressed; and
- remedial and enforcement procedures are included in the statute;

In short, the Act provides the legal framework for collective bargaining, along with a procedure for adjudicating disputes and enforcing rights and obligations. *The Trade Union Act*, like its counterparts in all other Canadian jurisdictions, does not attempt to prohibit economic conflict between employees and employers, but only to control it. It does not attempt to regulate the outcome of collective bargaining, but merely the process to be followed. The function of the Labour Relations Board within this statutory framework is to identify the parties which will participate in collective bargaining, and to monitor the procedural aspects of the bargaining process

Under *The Trade Union Act* the board is not required to follow all of the formal rules of procedure which have been developed in courts of law. The board attempts to conduct its hearings in a way which will make them accessible to representatives of the parties who have no legal training, and which will allow the board to identify the issues which are genuinely in dispute.

III. The Construction Industry Labour Relations Act, 1992

Passed in 1992, *The Construction Industry Labour Relations Act 1992*, S.S. 1992, c. C-29.11, provides for a system of collective bargaining in the building trades between organizations representing groups of contractors and the construction unions. The supervision of this statutory system is conferred on the board under the Act. To date, however, no applications have been brought under this statute.

IV. Budget Summary

The total budget of the Saskatchewan Labour Relations Board for the fiscal year ending March 31, 1993 was \$444,700. The actual sum expended by the board during the fiscal year was \$415,700.

The board has, over time, displayed an ability to manage its resources efficiently. It should be noted, however, that it is unable to control or predict the nature or number of applications put before it, and as a result, the relationship of expenditure to budgetary allocation cannot be guaranteed.

V. Summary of Board Activity for 1992-93

Between April 1, 1992, and March 31, 1993, the Labour Relations Board held 12 monthly meetings lasting a total of 128 days.

A total of 294 applications were received by the board during the year. Table 2 shows these applications by type of application and disposition. The five-year trend is shown by disposition in Table 3 and by type in Table 4.

During 1992-93, 102 certification orders covering 1,971 employees were issued by the board and seven certification orders affecting 117 employees were rescinded.

It is impossible to convey a complete picture of the nature and range of applications brought before the board during the year. It may be helpful, however, to mention briefly some of the issues which are illustrative of the many types of questions which arise from applications before the board.

In its decision in Burkart et al v. Dairy Producers' Co-operative Ltd. (1991), 87 Sask. R. 241, the Saskatchewan Court of Appeal suggested a more expansive interpretation of those sections of *The Trade Union Act* which confer remedial powers on the board than had previously been applied. In a number of cases in this reporting year, the board had occasion to consider the scope of its remedial jurisdiction in light of the Burkart decision.

In Saskatchewan Joint Board Retail, Wholesale and Department Store Union v. WaterGroup Canada Ltd. and Aquafine Water Ltd., LRB File No. 197-92, the board issued an injunction to preserve the status quo while the propriety of a proposed reorganization was considered.

In United Food and Commercial Workers v. F.W. Woolworth Ltd., LRB File No. 142-92, an employer was enjoined from certain communications with employees prior to the holding of a representation vote.

In Saskatchewan Joint Board Retail, Wholesale and Department Store Union v. Western Grocers, a Division of Westfair Foods Ltd., LRB Files No. 220-92 and 221-92, the board fashioned a remedial scheme which included the payment of monetary loss and the delay of closure of the warehouse operated by the employer.

The exercise by the board of its remedial jurisdiction was the subject of further judicial discussion as well. In decisions concerning United Steelworkers of America v. Brandt Industries Ltd., LRB File Nos. 193-91 and 194-91, and Westfair Foods Ltd., *supra*, the Court of Queen's Bench quashed orders of the board on the grounds that they had misconceived their remedial power. Both of these judicial decisions are currently under appeal.

The question of whether and in what form it is necessary for a trade union to demonstrate support from a group of employees it seeks to add to a bargaining unit was considered by the board in a number of cases, including Saskatchewan Government Employees' Union v. Wascana Rehabilitation Centre, LRB File No. 236-92; United Food and Commercial Workers v. Westfair Foods Ltd., LRB File No. 096-92; and Canadian Fire Bomber Pilots' Association v. Saskatchewan Government Employees' Union, LRB File No. 164-92. In these cases, the board considered how to balance the stability and security of existing bargaining rights with the right of individual employees to choose.

The characteristics of the duty to bargain imposed on both employers and trade unions under the Act were analysed by the board in a number of recent decisions, such as Saskatchewan Government Employees' Union v. Government of Saskatchewan, Mitchell and Tchorzewski, LRB File No. 264-92; International Brotherhood of Electrical Workers v. SaskPower and Government of Saskatchewan, LRB File No. 256-92; Amalgamated Transit Union v. City of Saskatoon, LRB File No. 120-92; and United Food and Commercial Workers v. Western Canadian Beef Packers Ltd., LRB File No. 229-92.

In several cases, the board considered aspects of the responsibility owed by trade unions to individual employees to represent them fairly: see Irene Skomar v. Service Employees' International Union, Local 333, LRB File No. 181-92; Lee Brock v. Retail, Wholesale and Department Store Union, Local 539, LRB File No. 211-92; John Robert Chrispen v. Prince Albert Fire Fighters' Association, LRB File No. 003-92; William Hanson v. United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, Local 179, LRB File No. 041-92; and Gilbert Radke v. Canadian Paperworkers Union, Local 1120, LRB File No. 262-92.

Finally, in Saskatchewan Joint Board Retail, Wholesale and Department Store Union v. Western Grocers, a Division of Westfair Foods Ltd., LRB File Nos. 007-93 and 011-93, the board has given some attention to the meaning of a lock-out by an employer in the context of allegations of unfair labour practices.

VI. Tables

Table 1

**Labour Relations Board
Organizational Chart
March 31, 1993**

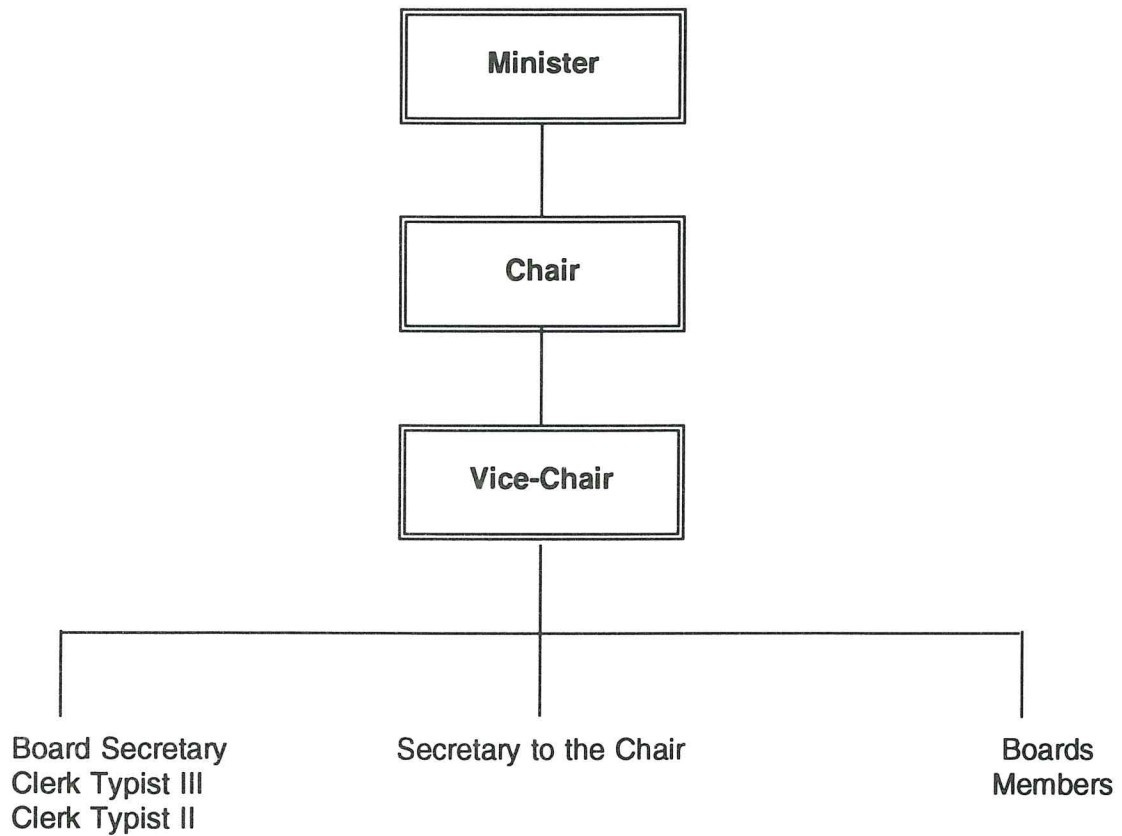


Table 2

**Applications under *The Trade Union Act*
by Type of Application and Disposition, 1992-93**

Type of application and disposition	Applications	Type of application and disposition	Applications
Total Applications	294	Exclusion on religious grounds	
Granted	158	(Section 5, clause l)	2
Dismissed	41	Granted	2
Withdrawn	46	Dismissed	--
Determined	2	Withdrawn	--
Conducted	0		
		Employee determination	
Certification		(Section 5, clause m)	--
(Section 5,			
clauses a, b and c)	114	Strike Votes	
Granted	102	(Section 11(8))	--
Dismissed	6		
Withdrawn	6	Reference of Dispute	
		(Section 24)	2
Unfair Labour Practice		Determined	2
(Section, clause d)	62	Withdrawn	--
Granted	22		
Dismissed	15	Duty of fair representation	
Withdrawn	25	(Section 25.1)	3
		Granted	--
Reinstatement		Dismissed	3
(Section 5, clause f)	17	Withdrawn	--
Granted	5		
Dismissed	6	Transfer of Obligation	
Withdrawn	6	(Section 37)	--
Monetary Loss		Technological Change	
(Section 5, clause g)	18	(Section 43)	--
Granted	5		
Dismissed	7	Ratification Votes	
Withdrawn	6	(Section 45)	1
		Granted	1
Company Dominated		Dismissed	--
(Section 5, clause h)	--	Withdrawn	--
Amendment or Rescission			
(Section 5, clauses i, j and k)	28		
Granted	21		
Dismissed	4		
Withdrawn	3		

*245 applications were disposed of although 294 applications were received.
Source: Saskatchewan Labour Relations Board files.

Table 3

**Applications to the Labour Relations Board
under *The Trade Union Act*, by Disposition,
1988-89 to 1992-93**

Year	Total Applications	Granted	Dismissed	Withdrawn	Determined*	Votes Conducted (Sec. 45)
1988-89	274	126	43	95	6	-
1989-90	261	146	54	58	2	1
1990-91	234	156	41	35	2	-
1991-92	318	198	45	73	2	-
1992-93	245	158	41	46	2	-

* Under *The Trade Union Act*, the board may determine the outcome of any dispute referred to it by either party. The decision of the board is final and binding.

Source: Saskatchewan Labour Relations Board files.

Table 4

**Applications under *The Trade Union Act*
by Type of Application, 1988-89 to 1992-93**

Type of Application	1988-89	1989-90	1990-91	1991-92	1992-93
Total applications	274*	261*	234*	318*	245*
Certification (Section 5, clauses a, b and c)	77	105	90	158	114
Unfair labour practices (Section 5, clause d)	90	60	46	64	62
Reinstatement (Section 5, clause f)	23	18	10	19	17
Monetary loss (Section 5, clause g)	23	18	11	23	18
Company dominated (Section 5, clause h)	--	--	--	3	--
Amendment or Rescission (Section 5, clauses i, j and k)	39	41	55	43	28
Exclusion on religious grounds (Section 5, clause l)	7	13	7	3	2
Employee determination (Section 5, clause m)	2	--	--	--	--
Strike Votes (Section 11[8])	--	--	--	--	--
Reference of Dispute (Section 24)	6	2	1	3	2
Duty of Fair Representation (Section 25.1)	--	--	--	--	3
Transfer of Obligation (Section 37)	--	2	1	--	--
Technological Change (Section 43)	1	--	--	2	--
Ratification Votes (Section 45)	6	2	--	--	1

*This figures represents the number of applications disposed of not the number received.
Source: Saskatchewan Labour Relations Board files.