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Annual Report 1994-95

Saskatchewan Labour Relations Board

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Saskatchewan Labour Relations Board

for the fiscal year ending March 31, 1995

Published by Authority of
The Honourable Doug Anguish
Minister of Labour



Letters of Transmittal

The Honourable John Wiebe
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, 1995.



Hon. Doug Anguish
Minister of Labour



Hon. Doug Anguish
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, 1994 and ending
March 31, 1995.

Sincerely,



Beth Bilson
Chairperson
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, (most recently in 1994), 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 a chairperson, vice-chairperson and an unspecified number of members. All members of the board, including the chairperson and vice-chairperson, are appointed by the Lieutenant Governor in Council. The chair and vice-chair are full-time members of the board. The remaining members 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 chairperson and vice-chairperson, are representatives of employees or employers. The chairperson and vice-chairperson are neutral and are lawyers.

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 at 652 - 1914 Hamilton Street, 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-chairperson), the board secretary and three clerical positions. An Organizational Chart of the Labour Relations Board is contained in Table 1.

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

Beth Bilson - Chairperson

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-Chairperson

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-chairperson. He is the board's first legally trained vice-chairperson. 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 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 and in 1992 was re-appointed in the same capacity. He is the business manager of the Saskatchewan Provincial Building and Construction Trade Council. Mr. MacLeod 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. Ms. Pitchford resides in Saskatoon.

Carolyn Jones

Carolyn Jones was appointed to the board in March, 1992. Ms. Jones was a staff representative with United Food and Commercial Workers Local 1400 for several years. 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.

Kathleen Joyner

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

Ken Hutchinson

Ken Hutchinson was appointed to the board in March, 1992, as an alternate member representing employers. He 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. Mr. Hutchinson resides in Fort Qu'Appelle.

David Maki

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

Gloria Cymbalisky

Gloria Cymbalisky was appointed to the board in March, 1992, as an alternate member representing employees. She 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. Ms. Cymbalisky resides in Regina.

Tom Davies

Tom Davies was appointed to the board in March, 1994, as an alternate member representing employers. Mr. Davies is the industrial relations manager for I.M.C. Canada. Mr. Davies resides in Esterhazy.

Gerry Caudle

Gerry Caudle was appointed to the board in March, 1994, as an alternate member representing employees. He had previously served in the same capacity during the 1980's. Mr. Caudle is a representative with the Canadian Union of Public Employees. Mr. Caudle resides in Saskatoon.

Bob Cunningham

Bob Cunningham was appointed to the board in March, 1994, as an alternate member representing employers. He is the executive director of the Saskatchewan Mining Association. Mr. Cunningham resides in Regina.

Elmer Schwartz

Elmer Schwartz was appointed to the board in March, 1994, as an alternate member representing employers. He is a special advisor to the Saskatchewan Association of Health Organizations. Mr. Schwartz resides in Saskatoon.

Note: The amendments to *The Trade Union Act* which came into force on October 28, 1994, abolish the position of "alternate" member of the board. All appointments to the board are now made to the position of member of the board.

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 Saskatchewan's *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;
- the 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. During this reporting period, the board has decided three applications under this statute. The most significant of these applications determined which unions were entitled to represent employees in the construction industry and which unions were not (see: [Emerald Oilfield Construction Ltd.](#), LRB File No. 019-94). The board's decision in [Saskatchewan Construction Labour Relations Council v. Construction Labour Relations Association](#), LRB File No. 023-94 was also significant. In this application the SCLRC had applied to replace the CLRA as the representative of all unionized employers in the construction industry. As a first step, the board was required to define who was and who was not a unionized employer.

IV. Budget Summary

The total budget of the Saskatchewan Labour Relations Board for the fiscal year ending March 31, 1995 was \$473,000. The actual sum expended by the board during the fiscal year was \$456,000.

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 1994-95

Between April 1, 1994, and March 31, 1995, the Labour Relations Board held 11 monthly meetings lasting a total of 143 days.

A total of 325 applications were received by the board during the year. Tables 2 and 3 show these applications by type of application and disposition. The five-year trend is shown by disposition in Tables 4 and 5 and by type in Tables 6 and 7.

During 1994-95, 98 certification orders covering 1,469 employees were issued by the board and six certification orders affecting 187 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.

Questions continued to arise over the scope of the board's remedial jurisdiction during this reporting period. The board has interpreted the Act as permitting it to order employers to compensate employees who have lost wages due to different kinds of violations of the Act. The Court of Queen's Bench, on the other hand, stated the view that the board's jurisdiction is limited to granting monetary loss to employees who have been discharged contrary to the Act. The issue was argued before the Court of Appeal in December, 1992, and a decision is still pending (see: Town of Watrous, LRB File No. 128-93; Metis Addictions Council of Saskatchewan Inc., LRB File Nos. 196-93 to 198-93 and 224-93; WaterGroup Canada Limited, LRB File No. 197-92). However, the board's remedial jurisdiction has been clarified by the amendments to *The Trade Union Act* which came into force on October 28, 1994, and this issue will recede in importance, except for those applications which are governed by the old Act.

In several decisions issued during this reporting period, the board was called upon, as it was last year, to examine not only the nature of a union's duty of representation, but also the board's remedial jurisdiction when that duty has been breached. (See John Barabe, LRB File No. 116-94; Gordon Basaraba, LRB File No. 086-94; Kim Kozak, LRB File No. 170-94; Vladimir Mravcak, LRB File No. 221-94).

In two rescission applications decided during this reporting period, the board was required to decide whether a tie vote or an actual majority was needed to decertify a union. The board reversed the policy established approximately ten years ago and ruled that an actual majority was required (see Campbell West 1991 Ltd., LRB File No. 059-84; Harmon International Industries Inc., LRB File No. 276-93).

The board was also required to deal with a number of issues which arose out of a very acrimonious dispute between the Regina Board of Police Commissioners and the Regina Police Association. On LRB File No. 159-93 the board was required to examine selective enforcement activity undertaken by police officers and ultimately determined that the Regina Police Association had been engaged in an illegal strike. On LRB File No. 250-93, the board determined that the Regina Board of Police Commissioners had committed an unfair labour practice by the manner in which they made deductions from the wages of police officers whom it believed to be engaged in strike activity.

In Saskatoon City Hospital, LRB File No. 266-93, the board again refused an invitation to recognize standard bargaining units at acute care hospitals. Generally, in the health care sector, the restructuring of health care has continued to generate a number of applications as unions and employers struggle to adjust to the changes. The territorial struggle between the Health Sciences Association and the Service Employees Union continued (see Parkridge Centre, LRB File No. 015-94; Royal University Hospital, LRB File No. 272-93; Saskatoon City Hospital, LRB File No. 266-93; Wascana Rehabilitation Centre, LRB File No. 265-93).

Finally, the board was involved in adjudicating a variety of issues in a number of labour disputes which received a good deal of public exposure (Regina Police Association v. The Regina Board of Police Commissioners, LRB File Nos. 159-93 and 250-93; R.W.D.S.U. v. Westfair Foods Ltd., LRB File No. 039-94; Victoria Inn, LRB File No. 125-94; Grain Services Union v. Saskatchewan Wheat Pool, LRB File No. 241-94; Pineland Co-operative Association Ltd., LRB File 239-94.)

VI. Tables

Table 1

**Labour Relations Board
Organizational Chart
March 31, 1995**

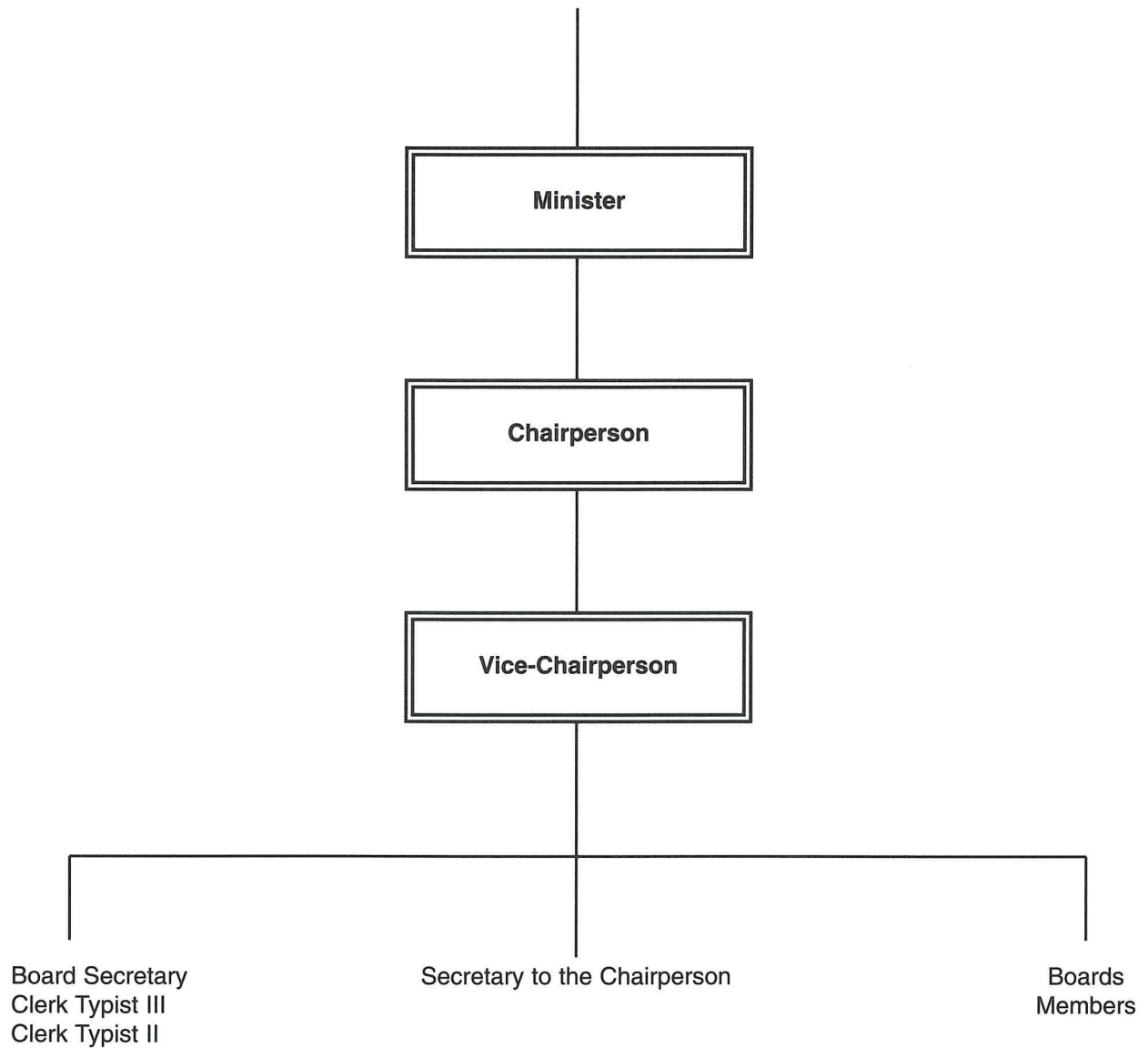


Table 2

**Applications under *The Trade Union Act*
by Type of Application and Disposition, 1994-95**

Type of application and disposition	Applications	Type of application and disposition	Applications
Total Applications	269	Exclusion on Religious Grounds	
Granted	156	(Section 5, clause l)	--
Dismissed	37	Granted	--
Withdrawn	74	Dismissed	--
Determined	2	Withdrawn	--
Conducted	0		
Certification		Employee Determination	
(Section 5,		(Section 5, clause m)	--
clauses a, b and c)	114		
Granted	98	Strike Votes	
Dismissed	7	(Section 11(8))	--
Withdrawn	9		
Unfair Labour Practice		Reference of Dispute	
(Section 5, clause d)	74	(Section 24)	2
Granted	18	Determined	2
Dismissed	16	Withdrawn	--
Withdrawn	40		
Reinstatement		Duty of Fair Representation	
(Section 5, clause f)	14	(Section 25.1)	4
Granted	6	Granted	1
Dismissed	2	Dismissed	3
Withdrawn	6	Withdrawn	--
Monetary Loss		Transfer of Obligation	
(Section 5, clause g)	21	(Section 37)	--
Granted	12		
Dismissed	2	Technological Change	
Withdrawn	7	(Section 43)	1
Company Dominated		Granted	--
(Section 5, clause h)	--	Dismissed	--
Granted	--	Withdrawn	1
Dismissed	--		
Withdrawn	--	Ratification Votes	
Amendment or Rescission		(Section 45)	--
(Section 5, clauses i, j and k) ...	39	Granted	--
Granted	22	Dismissed	--
Dismissed	7	Withdrawn	--
Withdrawn	10		

* 269 applications were disposed of although 325 applications were received.
Source: Saskatchewan Labour Relations Board files.

Table 3

**Applications under *The Construction Industry Labour Relations Act, 1992*
by Type of Application and Disposition, 1994-95**

Type of application and disposition	Applications	Type of application and disposition	Applications
Total Applications	1	Section 29	--
Granted	1	Granted	--
Dismissed	--	Dismissed	--
Withdrawn	--	Withdrawn	--
Determined	--		
Section 5	--	Section 37	--
Granted	--	Granted	--
Dismissed	--	Dismissed	--
Withdrawn	--	Withdrawn	--
		Determined	--
Section 16	1		
Granted	1		
Dismissed	--		
Withdrawn	--		

Source: Saskatchewan Labour Relations Board files.

Table 7

**Applications under *The Construction Industry Labour Relations Act, 1992*
by Type of Application, 1993-94* to 1994-95**

Type of Application	1993-94	1994-95
Total applications	3	1
Section 5	1	--
Section 16	--	1
Section 29	1	--
Section 37	1	--

**The Construction Industry Labour Relations Act, 1992* was proclaimed in 1992. Therefore, statistics are only available commencing in the 1993-94 fiscal year.
Source: Saskatchewan Labour Relations Board files.