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Government of
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1995-96

Annual Report 1995-96

Saskatchewan Labour Relations Board

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Annual Report 1995-96

Saskatchewan Labour Relations Board

for the fiscal year ending March 31, 1996

Published by Authority of
The Honourable Doug Anguish
Minister of Labour



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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, 1996.



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, 1995 and ending
March 31, 1996.

Sincerely,



Beth Bilson
Chairperson
Labour Relations Board



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 and 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. The Board also 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.

Gwendolyn J. Gray - Vice-Chairperson

Gwen Gray was appointed to the Board in August, 1995. Ms. Gray obtained her undergraduate degrees in sociology and law from the University of Saskatchewan and her graduate degree in law from Cornell University, Ithaca, New York. Ms. Gray practised labour law in Regina from 1978 to 1988 and in Edmonton, Alberta, from 1992 to 1994. She returned to Regina in 1994 to work as Legal Analyst in the Department of Labour.

Bill Adams

Bill Adams was appointed to the Board in July 1995 as a member representing employers. Mr. Adams is self-employed in an industrial relations consulting firm. During the term of his appointment, Mr. Adams accepted other employment in British Columbia and his resignation was accepted effective July 24, 1996.

Bruce McDonald

Bruce McDonald was appointed to the Board in 1974. Mr. McDonald is a retired 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.

Diane Pitchford

Diane Pitchford was appointed to the Board in March 1992 as a 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.

Ken Hutchinson

Ken Hutchinson was appointed to the Board in March 1992 as a 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.

Gloria Cymbalisky

Gloria Cymbalisky was appointed to the Board in March 1992 as a 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 a member representing employers. Mr. Davies is the industrial relations manager for I.M.C. Canada. Mr. Davies resides in Esterhazy.

Terry Verbeke

Terry Verbeke was appointed to the Board in July 1995 as a member representing employers. Mr. Verbeke is Manager of the Park Town Hotel. Mr. Verbeke resides in Saskatoon.

Gerry Caudle

Gerry Caudle was appointed to the Board in March 1994 as a member representing employees. He had previously served in the same capacity during the 1980s. 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 a member representing employers. He is the executive director of the Saskatchewan Mining Association. Mr. Cunningham resides in Regina.

Donald Bell

Don Bell was appointed to the Board in July 1995 as a member representing employers. He is President of Insulation Applicators Ltd. Mr. Bell resides in Regina.

Brenda Cuthbert

Brenda Cuthbert was appointed to the Board in July 1995 as a member representing employers. Ms. Cuthbert is a Industrial Relations Officer for Kindersley Transport. Ms. Cuthbert resides in Saskatoon.

Gordon Hamilton

Gordon Hamilton was appointed to the Board in July 1995 as a member representing employers. Mr. Hamilton is an Industrial Relations Manager for Federated Co-operatives Ltd. Mr. Hamilton resides in Warman.

Kathie Jeffrey

Kathie Jeffrey was appointed to the Board in July 1995 as a member representing employers. When appointed, Ms. Jeffrey was an Industrial Relations Officer for the City of Saskatoon. She is now employed with the Prince Albert District Health Board and resides in Prince Albert.

Donna Ottenson

Donna Ottenson was appointed to the Board in July 1995 as a member representing employees. She is an Employment Relations Officer for Saskatchewan Union of Nurses. Ms. Ottenson resides in Regina.

Bob Todd

Bob Todd was appointed to the Board in July 1995 as a member representing employees. Mr. Todd is Business Agent for the United Brotherhood of Carpenters & Joiners. Mr. Todd resides in Saskatoon.

Hugh Wagner

Hugh Wagner was appointed to the Board in July 1995 as a member representing employees. Mr. Wagner is Secretary Manager for the Grain Services Union. Mr. Wagner resides in Regina.

George Wall

George Wall was appointed to the Board in July 1995 as a member representing employees. He is an International Representative for the Service Employees International Union. Mr. Wall resides in Saskatoon.

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 employer practices are prohibited 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.

IV. Budget Summary

The total budget of the Saskatchewan Labour Relations Board for the fiscal year ending March 31, 1996 was \$446,000. The actual sum expended by the Board during the fiscal year was \$526,000.

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 1995-96

Between April 1, 1995, and March 31, 1996, the Labour Relations Board held 12 monthly meetings lasting a total of 144 days.

A total of 315 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 1995-96, 98 certification orders covering 1469 employees were issued by the Board and 6 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.

The Board heard a number of applications which dealt with the labour relations implications of health care reorganization. In *Saskatchewan Union of Nurses v. Saskatoon City Hospital*, LRB File No. 050-93, the Board articulated its policy that it would consider and comment on the incremental changes as they take place in health care labour relations but would not preside over the implementation of some entirely new configuration of bargaining.

The technological change provisions in the Act also received considerable attention during this reporting period. The Board held in *United Food and Allied Workers, Local 248-P v. Saskatoon Poultry Products Ltd.*, LRB File No. 089-95, that the Employer's decision to turn a temporary lay-off into a permanent reduction of work where the work was transferred to a different plant was a technological change. The Board's decision was upheld on review in the Court of Queen's Bench ([1996] Sask. L.R.B.R. c.-10). In *Saskatchewan Joint Board, Retail, Wholesale & Department Store Union v. Acme Video Inc.*, LRB File Nos. 179-95, 181-95 & 182-95, the Board held that a

cessation of work is covered by the technological change provisions in the Act. The Board's decision has been overturned by the Court of Queen's Bench ([1996] Sask. L.R.B.R. c.-26) and is currently under appeal to the Court of Appeal.

The Board was also called upon to exercise remedial powers granted to it under the 1994 Amendments to the Act. In *Saskatchewan Joint Board, Retail, Wholesale, and Department Store Union v. Marwest Food Systems Ltd.*, LRB File No. 038-96, the Board issued an Interim Order requiring the reinstatement of an employee during an organizing campaign. In *Saskatchewan Joint Board, Retail, Wholesale and Department Store Union v. Prairie Micro-Tech Inc.*, LRB File No. 201-95, the Board issued guidelines on first collective agreement arbitration applications and adopted a practice of appointing Board agents to attempt to mediate such disputes.

In addition to the cases which are heard and decided by the Board, the Board also underwent some administrative changes. During the reporting year, in conjunction with its publisher, the Saskatchewan Legal Education Society Inc. (SKLESI), the Board commenced the publication of the Saskatchewan Labour Relations Board Report. Each annual report contains the Reasons for Decisions issued by the Board for the year along with the Court Judgments arising from such reasons. The Board wishes to thank SKLESI, its Executive Director, Madeleine Butschler, and Special Projects Coordinator, Erica Pasmény, for their enormous efforts in publishing the new report.

The Board also underwent changes in staff with the retirement of two long-serving staff members, Ms. Lottie Bamford, Clerk-Typist, and Ms. Sandra Leflar, Board Secretary, both of whom served the Board and the labour community of Saskatchewan with good humour for many years.

During the reporting period, the Board encouraged the greater use of pre-hearing conferences to encourage the streamlining of disputes that are taken to the Board and to encourage settlement discussions where those may be appropriate.

VI. Tables

Table 1

**Labour Relations Board
Organizational Chart
March 31, 1996**

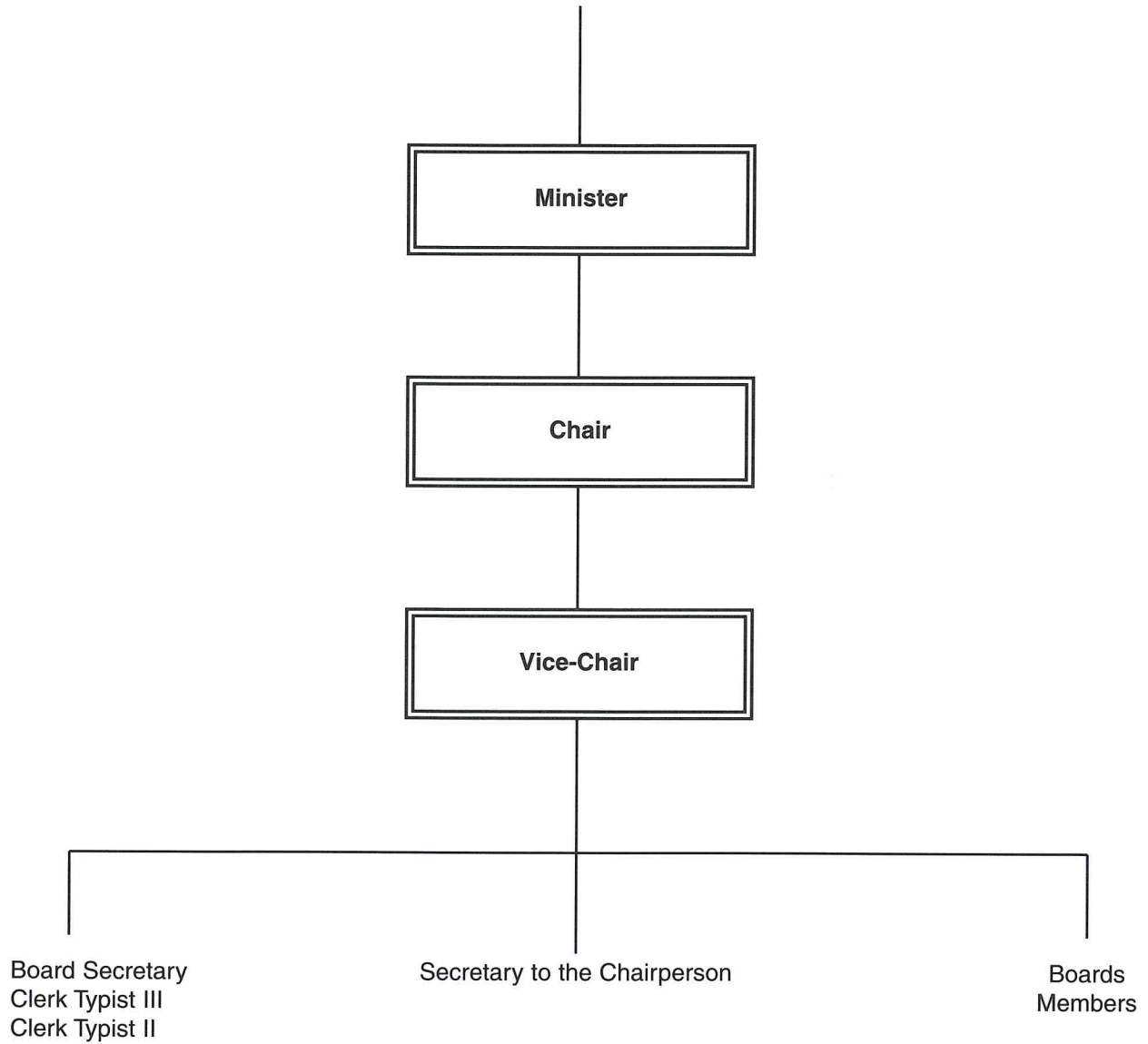


Table 2

**Applications under *The Trade Union Act*
by Type of Application and Disposition, 1995-96**

| Type of application and disposition | Applications | Type of application and disposition | Applications |
|------------------------------------------------------------------|--------------|-----------------------------------------------------------------------|--------------|
| Total Applications | 301 | Amendment or Rescission (Section 5, clauses i, j and k) ... | 45 |
| Granted | 175 | Granted | 35 |
| Dismissed | 56 | Dismissed | 4 |
| Withdrawn | 66 | Withdrawn | 6 |
| Determined | 3 | | |
| Deferred | 1 | Exclusion on religious grounds (Section 5, clause l) | — |
| Certification (Section 5, clauses a, b and c) | 120 | Granted | — |
| Granted | 109 | Dismissed | — |
| Dismissed | 4 | Withdrawn | — |
| Withdrawn | 7 | Employee determination (Section 5, clause m) | — |
| Unfair Labour Practice (Section 5, clause d) | 62 | Strike Votes (Section 11(8)) | — |
| Granted | 6 | Reference of Dispute (Section 24) | 3 |
| Dismissed | 19 | Determined | 2 |
| Withdrawn | 36 | Withdrawn | 1 |
| Deferred | 1 | Duty of fair representation (Section 25.1) | 4 |
| Reinstatement (Section 5, clause f) | 28 | Granted | — |
| Granted | 11 | Dismissed | 3 |
| Dismissed | 12 | Withdrawn | 1 |
| Withdrawn | 5 | Transfer of Obligation (Section 37) | — |
| Monetary Loss (Section 5, clause g) | 34 | Technological Change (Section 43) | 3 |
| Granted | 12 | Granted | 2 |
| Dismissed | 12 | Dismissed | — |
| Withdrawn | 9 | Withdrawn | 1 |
| Determined | 1 | Reconsideration (Section 13) | 2 |
| Company Dominated (Section 5, clause h) | — | Granted | — |
| Granted | — | Dismissed | 2 |
| Dismissed | — | Withdrawn | 1 |
| Withdrawn | — | | |

*301 applications were disposed of although 315 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, 1995-96**

| Type of application and disposition | Applications | Type of application and disposition | Applications |
|-------------------------------------|--------------|-------------------------------------|--------------|
| Total Applications | 3 | Section 5 | — |
| Granted | 1 | Granted | — |
| Dismissed | 1 | Dismissed | — |
| Withdrawn | 1 | Withdrawn | — |
| Determined | — | | |
| Section 16 | — | Section 25 | 1 |
| Granted | — | Granted | — |
| Dismissed | — | Dismissed | — |
| Withdrawn | — | Withdrawn | 1 |
| Section 29 | — | Section 37 | — |
| Granted | — | Granted | — |
| Dismissed | — | Dismissed | — |
| Withdrawn | — | Withdrawn | — |

Source: Saskatchewan Labour Relations Board files.

Table 4**Applications to the Labour Relations Board under *The Trade Union Act*,
by Disposition, 1991-92 to 1995-96**

| Year | Total Applications | Granted | Dismissed | Withdrawn | Determined* |
|---------|--------------------|---------|-----------|-----------|-------------|
| 1991-92 | 318 | 198 | 45 | 73 | 2 |
| 1992-93 | 245 | 158 | 41 | 46 | 2 |
| 1993-94 | 286 | 186 | 36 | 60 | 4 |
| 1994-95 | 269 | 156 | 37 | 74 | 2 |
| 1995-96 | 301 | 175 | 56 | 66 | 3 |

*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 5**Applications to the Labour Relations Board under *The Construction Industry Labour Relations Act, 1992*, by Disposition, 1993-94 to 1995-96**

| Year | Total Applications | Granted | Dismissed | Withdrawn | Determined |
|---------|--------------------|---------|-----------|-----------|------------|
| 1993-94 | 3 | — | 2 | — | 1 |
| 1994-95 | 1 | 1 | — | — | — |
| 1995-96 | 3 | 1 | 1 | 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.

Table 6

Applications under *The Trade Union Act* by Type of Application, 1991-92 to 1995-96

| Type of Application | 1991-92 | 1992-93 | 1993-94 | 1994-95 | 1995-96 |
|----------------------------------------------------------------------------|-------------|-------------|-------------|-------------|-------------|
| Total applications | 318* | 245* | 286* | 269* | 301* |
| Certification (Section 5, clauses a, b and c) | 158 | 114 | 85 | 114 | 120 |
| Unfair labour practices (Section 5, clause d) | 64 | 62 | 66 | 74 | 62 |
| Reinstatement (Section 5, clause f) | 19 | 17 | 19 | 14 | 28 |
| Monetary loss (Section 5, clause g) | 23 | 18 | 19 | 21 | 34 |
| Company dominated (Section 5, clause h) | 3 | — | 1 | — | — |
| Amendment or Rescission (Section 5, clauses i, j and k) | 43 | 28 | 75 | 39 | 45 |
| Exclusion on religious grounds (Section 5, clause l) | 3 | 2 | 1 | — | — |
| Reconsideration (Section 13) | — | — | — | — | 2 |
| Reference of Dispute (Section 24) | 3 | 2 | 6 | 2 | 3 |
| Duty of Fair Representation (Section 25.1) | — | 3 | 8 | 4 | 4 |
| Technological Change (Section 43) | 2 | — | — | 1 | 3 |
| Ratification Votes (Section 45) | — | 1 | 1 | — | — |

*These figures represent the number of applications disposed of, not the number received.
Source: Saskatchewan Labour Relations Board files.

Table 7

**Applications under *The Construction Industry Labour Relations Act, 1992*
by Type of Application, 1993-94* to 1995-96**

| Type of Application | 1993-94 | 1994-95 | 1995-96 |
|---------------------------------|----------|----------|----------|
| Total applications | 3 | 1 | 3 |
| Section 5 | 1 | — | — |
| Section 16 | — | — | — |
| Section 25 | — | — | 1 |
| Section 29 | 1 | — | 2 |
| 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.