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ABSTRACT

This collection of five papers on labor relations was adapted from speeches presented at the Institute of Professional Librarians of Ontario seminar on labor relations and the librarian. The first speaker, Mr. David Kates, traced the history and philosophy of labor legislation in Ontario and emphasized current practice in collective bargaining in relation to the Ontario Labour Relations Act. Professionals and the collective bargaining process were discussed by Val Scott in the second speech. Aubrey Golden gave a summary of the history of trade unions and collective bargaining and spoke on the problems and difficulties in organizing professional groups. The fourth speaker, John Hurst, covered management responsibilities and the relationships of management to the employers. In the final address, Elmo Gilchrist related his experiences and problems in organizing unions. (JG)

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LABOUR RELATIONS AND THE LIBRARIAN

Proceedings of a seminar
sponsored by the Institute
of Professional Librarians
of Ontario and the Midwestern
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May 14 - 17, 1972.

Held under the auspices of
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Institute of Professional Librarians of Ontario
Toronto, 1972.

C O N T E N T S

Introduction

The need for a seminar on Labour Relations and the Librarian emerged on two fronts. On the one hand libraries have recently become the target for unions whose membership is largely made up of white-collar employees; willingly, or unwillingly, not a few librarians have thereby become part of the union movement. And on the other hand an increasing number of librarians have reluctantly come to the conclusion that the aims and objectives of librarianship cannot be realized apart from an association that supports and makes possible collective bargaining. In an age when more and more professionals are organizing to achieve their goals it is folly to assume that librarians can continue to "go it alone".

The Institute of Professional Librarians of Ontario (IPLO) could not remain indifferent to these twin pressures. Not without some loss of face the Board reversed its policy of "non-involvement" as set forth in the IPLO Quarterly Special Supplement of February 1970 and proceeded to get involved on the two fronts mentioned above and on a third as well. Members -- and some non-members! -- wanted help to stay out of unions. Others wanted IPLO to become an association certified by the Provincial Government to act as a bargaining agent for librarians. The third front emerged when the Institute found itself involved in a grievance.

Notwithstanding the seeming contradictions and ambiguities of its policies and programs the Institute has always been involved and concerned with "unions" to the extent that professional associations and unions share similar aims and objectives. The many years in which the Institute supported the Steering Committee for the Professional

Negotiations Act, and the contribution made to that Committee by an outstanding librarian, is ample evidence of IPLO's continuing involvement.

While this seminar is further evidence of the Institute's involvement in labour relations the role of the Midwestern Regional Library System, and its Director, Mr. E. S. Beacock, deserves something better than passing reference. As part of his alignment with the business community, and his conviction that libraries and librarians have to operate in a business-like way, Mr. Beacock approached his Board with the recommendation that it co-sponsor, with the IPLO, a seminar on labour relations, and on the basis of past associations he also recommended that the seminar be conducted under the auspices of the Waterloo Lutheran University School of Business and Economics. The Board not only approved his recommendations, but advanced a small sum of money to put the machinery in motion. An equal sum was advanced by the IPLO.

But credit for initiating must be matched with credit for doing, and in this department the Business Manager for the University, Mr. Cliff Bilyea, gets full marks. Without his experience and commitment, and his active participation in every detail of the seminar, it could not have succeeded half so well. Mr. Bilyea's accomplishment is in no way diminished by making mention of his capable secretary, Elizabeth Endresz, who so capably handled the details apart from which no conference or seminar can possibly succeed.

Appreciation is owing the four stalwarts who audited the tapes and prepared the papers that follow. Anyone who has ever tried to reduce a semi-formal taped presentation into an interesting

and readable paper knows how difficult it is. That they have done so well is reason enough for us to say thanks to Marie Scheffel, Grace Buller, Margaret Boehnert, and Paul Weins.

But these proceedings cannot do justice to the Seminar; they cannot capture the vitality of the participants, the breadth and depth of the informal discussions, nor the value of face to face encounters with new and different members of one's profession. While credit is justly given to those who initiated the Seminar, to those who organized the Seminar, and to those speakers who gave content to the Seminar, in the final analysis it was the participants who made the Seminar a great experience because they gave so fully of themselves.

Clinton D. Lawson,
Kitchener, Ontario.

Additional copies of this publication are available at a cost of $4.00 from the Institute of Professional Librarians of Ontario,
17 Inkerman Street,
TORONTO 5, Ontario.

Inquiries concerning the use, and duplication of tapes made at the Seminar should be addressed to the IPLO office.

The Ontario Labour Relations Act — David Kates

In his lecture on the Ontario Labour Relations Act Mr. David Kates, who has been a legal officer with the Ontario Labour Relations Board since April 1970, outlined the history and philosophy of labour legislation in Ontario with emphasis on current practice as related to collective bargaining in libraries. Of particular interest to seminar participants - many of whom came from libraries with collective bargaining units or from libraries with collective bargaining units recently formed or being formed - was the process by which collective bargaining units are formed in libraries and the involvement of professional librarians in collective bargaining units.

I. History of the Labour Relations Act

The speaker traced the development of current Ontario labour legislation beginning with the Trade Unions Act (1870) which freed unions from charges of criminal conspiracy and, by implication, created a legal justification for peaceful picketing. A number of pieces of legislation were highlighted in the discussion which involved a series of legislative acts, court cases, and orders in Council.

The Industrial Disputes Investigation Act (1907) provided for compulsory investigation by government appointed boards into labor disputes in certain types of industry (coal mining, communications, gas, electric power, and water works). As a cooling off period the Act required the employer and the employee to give thirty days notice of intended changes in wages and hours.

Another major piece of legislation in the development of Ontario Labour relations law, the Collective Bargaining Act (1943) required the employer to negotiate with the representatives of a collective bargaining

agency which had been certified as appropriate by the Labour Court of Ontario, a branch of the High Court of Justice of the province created to administer the Act. The Act contained remedies for unfair labour practices such as discrimination by employers against employees engaged in lawful union activities. Employers were prohibited from discharging employees for joining a trade union or making it a condition of employment that an employee could not be a member of a trade union. The Act specified that no employees' association could be certified if dominated or influenced by the employer.

Following additional war time and post war legislation the Labour Relations Act as presently structured was first enacted in 1950. With a series of amendments the 1950 Act represents the Labour relations policy of the legislature of the Province of Ontario. The most recent amendments to the Act were proclaimed in February, 1971 in The Labour Relations Amendment Act.

II. Philosophy of the Labour Relations Act

The speaker stressed the concept of collective bargaining as crucial to the aims of Ontario Labour Legislation. As quoted from A.W.R. Carrothers, Collective Bargaining Law in Canada, "Collective bargaining may be described as a process of negotiation between an employer and a labour union representing his employees, conducted with the object of concluding an agreement regulating the relationship between the employer and his employees."

The concept of collective bargaining presumes the freedom on the part of the employees to form themselves into associations and, once formed, to engage employers in bargaining on behalf of employees. In addition it presupposes the freedom of associations or unions to invoke meaningful economic sanctions in support of bargaining.

Mr. Kates went on to review some of the principles which form the basis of this adversary system in labour-management relations. There is a basic fundamental economic conflict of interest between the aims of employers and the needs of employees: the employer, to achieve his goals, must reduce costs; the employee in selling his labour must maximize benefits. If limited to the law of supply and demand, the employee's expectation to maximize benefits is not equal to the employer's capacity to reduce costs. To redress this balance, employees negotiate collectively through a bargaining agent with the express aim of reaching an accommodation on the issue of the appropriate terms and conditions of employment.

The policy of the Legislature as expressed in the Labour Relations Act is to subscribe to the practice of collective bargaining as a means of encouraging industrial peace. The role of the government, however, in collective bargaining is passive: it heads off disputes and provides the framework in which disputes may be resolved.

III. General Framework of the Act

The Legislature attempts to mitigate industrial conflict by providing guidelines for the process whereby a union becomes certified or acquires bargaining rights; by outlining provisions to be followed in the negotiation stage of an agreement; and by specifying certain requirements for a collective agreement.

A union may acquire bargaining rights either by certification or by voluntary recognition through agreement by the parties.

At the negotiation stage the Act requires the parties to bargain in good faith and to make every reasonable effort to reach a collective agreement. The Act also provides for a conciliation process where

bargaining positions become deadlocked - through the appointment of conciliation officers, mediators, or a conciliation board. It is only after the time limits for conciliation set out in the Act have been met, that the parties may legally strike or lockout.

A Collective Agreement must have a "no strike - no lock-out" clause, or, in its absence, the agreement "shall be deemed" to contain one. Also mandatory is a provision for the final and binding settlement by arbitration without stoppage of work of all differences between the parties arising from the interpretation, application, administration or alleged violation of the agreement. Where there is failure to appoint an arbitrator or to constitute a Board of Arbitration, the Minister may appoint an arbitrator or make such appointments as are necessary to constitute a Board of Arbitration.

The speaker discussed in some detail, the provisions and interpretation of the Act pertaining to the acquisition of bargaining rights by a union (certification), particularly with regard to the determination of an appropriate bargaining unit.

Certain categories of employees cannot be members of a bargaining unit under the jurisdiction of the Ontario Labour Relations Act· those excluded by constitutional law; public servants who come under the jurisdiction of the Public Service Acts; and teachers, policeman, firemen, domestics, farmers, etc.

The process of certification involves an application by a trade union for a certificate entitling the union to represent employees in an appropriate unit in the process of collective bargaining. The union must satisfy the Labour Relations Board that it represents a majority of employees

in a bargaining unit found appropriate for collective bargaining. In the case of a regular application, if more than 65% of the employees in the unit are members of the union on the date of application the union is entitled to outright certification. If less than 35% of employees in the unit are members, the application is dismissed. If the number of employees in the unit who are members falls between 35% and 65% a prehearing representation vote must be taken, with a majority (51%) vote for the union required for certification.

The Labour Relations Act specified certain times when a union may apply for certification. In the case of an existing trade union, for example, another union must wait until the last 2 months of the agreement with the existing union before the new union may apply for certification. Or, again, if defeated in an application, a union must wait 6 months before applying again.

In considering an application for certification, the Labour Relations Board must be satisfied that the proposed collective bargaining unit is appropriate, that it is a cohesive, viable unit for purposes of collective bargaining. Among a number of employees employed in different capacities and endowed with particular skills and placed in different divisions (or departments or classifications) and often situated in different locations, the board must, be convinced that these employees sufficiently share a community of interest to form a viable unit appropriate for collective bargaining. There must be the necessary functional coherence and interdependence amongst employees employed in several classifications and performing specific duties to form one viable group.

The Act specifically excludes from bargaining units professional employees who are members of particular professions cited, e.g. medical, legal, architectural, who are entitled to practice in Ontario and who are employed in a professional capacity. The Act does not specifically cite librarians who, as a result are eligible for membership in collective bargaining units, unless they are excluded under the category of "managerial persons" who exercise decision-making authority and who have discretion to determine terms and conditions of employment for employees. Also excluded are those persons employed in a confidential capacity in matters relating to labour relations.

Mr. Kates observed that up to the present time, the Labour Relations Board has no set policy on appropriate collective bargaining units with regard to professional librarians. Most existing library units which include both professionals and non-professionals have been formed on the agreement of the parties or by voluntary recognition. Although no pattern has emerged in cases involving librarians heard thus far by the Labour Relations Board, the speaker felt that, based on the case of the East York Public Library Board, libraries might well have difficulty convincing the Board that professional librarians constitute a viable unit. In the East York case, while librarians had agreed to become part of an all employee unit, the employer objected unsuccessfully to the inclusion of librarians in the bargaining unit. The Board found a sufficient community of interest shared by librarians, office employees and non-professionals for a viable bargaining unit.

In an interim decision at the University of Toronto, however, non-professional, non-academic employees of the library were found to be an appropriate unit.

The speaker reviewed some of the factors considered by the Board in determining an appropriate unit.

In general terms the Board will determine an appropriate unit based on the agreement of the parties (except where an agreement conflicts with Board policy); the past history of Collective Bargaining in the industry and/or between parties; and the desires of the employees affected. There is a strong bias against fragmentation of bargaining units and a predisposition to comprehensive units.

Specifically, when dealing with a white-collar unit, the Board will consider similarities and differences in nature, responsibility, and complexity of job duties amongst various classifications of employees. Similarities and differences in conditions of employment such as hours of work, method of payment, vacation pay, fringe benefits, etc., will be taken into account. Skills of employees - whether academic attainment, special training or particular skills are required - will be evaluated in justifying severence from an otherwise appropriate unit with other employees. The Board may analyze, too, the organizational structure of the employer's undertaking with a view to discovering whether a bargaining unit can exist effectively in functional isolation from other units or whether a comprehensive unit is more appropriate.

Geographic locations of various parts of the employer's undertaking and their degree of interdependence may also be a factor.

Of particular importance to librarians is the degree of functional coherence and interdependence that occurs in libraries between clerical employees, non-professionals, and professionals who work in coordination with each other. To what degree is one group dependent on the other for work

rformance?

Discussion

A number of points were raised in the general discussion following Mr. Kates' lecture.

The Labour Relations Board is an administrative tribunal whose function is to adjudicate disputes between parties under the Labour Relations Act.

The Board consists of a vice-chairperson who must be a lawyer, a management representative, and a union representative. Members of the board are appointed for an indefinite tenure - "during good behavior" - by the Cabinet.

On disputed issues a majority vote of the board prevails. Failing a majority, the decision of the vice-chairman is final. The Board's decisions cannot be appealed directly, but can be attacked indirectly through the courts on the basis of exceeding its jurisdiction.

The Board has powers to subpoena witnesses, administer oaths, and may send agents or examiners to employers' locations to seek information.

The speaker defined union security provisions. In the case of a closed shop the employee must be a member of a union before he is hired. If additional employees are needed for a job, the employer approaches the union for additional help e.g. musicians union.

In the case of a union shop the employee, as a condition of employment, becomes a member of the union as soon as he is hired.

Compulsory Check-off provides that an employee need not join a union as long as he pays union fees.

Persons whose religious scruples prevent them from joining a union may apply to the Labour Relations Board for an exemption under section 39 of the Act. An amount of money equal to union dues must be donated to a

charitable organization.

It was observed that a group of non-professional library staff representing 75% of a total library staff could conceivably be organized into a collective bargaining unit which would include professionals, but without their knowledge or against their will.

Concern was expressed that "form 5", which the employer is required to post as notice of proceedings on an application for certification, does not provide sufficient information for persons who object to their inclusion in the unit but who are not aware of their right to counsel, or of their right to dispute the appropriateness of the bargaining unit, or of the procedures whereby they can make known effectively their desire to remain out of the bargaining unit.

An employer it was stated, must be very careful with regard to the manner in which he deals with employees during an organizational period. Providing information to persons disputing the bargaining unit, if interpreted under the Act as influencing employees would nullify the effect of that representation of petition. The employer may, in a defensive posture respond to misinformation or correct misleading statements so long as he does "not use coercion, intimidation, threats, promises, or undue influence."

Some seminar participants expressed the view that while pro-union employees were well-briefed, persons who did not wish to become members of the bargaining unit were at a severe disadvantage due to lack of information. It was felt by a number of participants that in this regard the Act was stacked against those who wished to dispute the appropriateness of bargaining units.

It was suggested that the Institute of Professional Librarians of Ontario investigate the possibility of circulating information to Ontario Librarians on the rights and duties under the Labour Relations Act of employers and employees with respect to the organization of collective bargaining units.

Paul Weins

I just wonder, before I launch into my remarks, whether I could take a brief poll of the Seminar. I am wondering how many of you consider yourselves to be professional employee librarians? Consider yourself to be - this is quite apart from the act. How many would identify with that term? Would you just indicate? All right, thank you. How many of you would consider yourselves to be part of "management?" I see. Well, I think this illustrates our dilemma. Under the Labour Relations Act the two terms are supposed to be mutually exclusive. You cannot be an employee and a manager as well. This is one of the problems that I think we are facing in the sort of post industrial age that we seem to be in now. If you read Alvin Toffler and Future Shock and other futurologists, you find that we are entering into a society now that is totally unlike anything that we have emerged from, and the industrial society that we have emerged from is a very poor guide to the future. We are thinking more in terms of creative leisure and less of the work ethic almost as an end in itself. Now, it seems to me that in this kind of society the professional has a vital role to play and unfortunately our society hasn't really taken note of this fact. We train professionals through universities and through special technical courses. We even have professional development programs on the job, and seminars like this which open these professionalisms in one form or another and yet when you actually come into formal collective relationships with the employer you find that the professional is

not quite sure of his ground. He is quite confident about his technical expertise. He knows how to perform in his job given half a chance. He knows what he really wants in terms of fulfilling himself through his profession, but, at the same time, he or she has to face reality in society and that is that employers tend to think more or less in traditional terms.

I have been associated with the Society of Ontario Hydro Professional Engineers for fourteen years now as their General Manager and Chief Administrative Officer, an organization of 1,200 professional engineers and scientists who work for Ontario Hydro. We have had numerous problems over the years because of our size. It has been administratively impossible to relate to professionals in an organization the size of the Hydro on an individual basis. The day where the professional could walk into the boss's office and say, I have a problem that I would like to sit and discuss with you, is over of course. It would simply be administratively impossible to cope with that situation. So, management has developed techniques of relating to professionals along with its other employees on a collective basis. Since they are treated collectively, necessarily they have to be represented collectively. In large organizations it is almost natural to work through groups because employees, like managers to-day, look upon this as a creative tool for good personal relations. Rarely do you meet the intransient type of the Horatio Alger school where they feel a professional should be self re-

specting and that all they have to do is perform well as professionals and they will get their due. It just doesn't work that way anymore and managers realize that it is necessary to work through groups.

When you deal with professional employees as opposed to tradesmen and industrial workers on the industrial scene, you encounter a different phenomenon. It is hard to pinpoint exactly what it is but it has something to do with what I call a professional mystique. There are people who feel that by virtue of their training and their commitment to a particular profession, they can hope to improve society through that profession and liberate themselves through the process, and they really need a minimum of supervision to achieve this opportunity to try in this way. But unfortunately, the structure again seems to militate against that happening. So what to do? Well, in my experience over the last fourteen years, I find that it is almost impossible to achieve true professionalism in large organizations, or where you have collective problems, unless you organize some kind of a negotiating unit or bargaining unit. I don't think the two exercises are incompatible. Professional associations over the years have tried to say that any self-respecting professional who bargains collectively has really surrendered his professionalism. That has been challenged and I think has been disproved and also dismissed. It just does not apply. But if a professional does not follow his profession-

al instincts and engages in collective bargaining, there is a possibility of falling between two stools, because quite often you do not have the background training, the militancy of a trade unionist - you do not have that particular heritage - and there is nothing worse, as other industrial managers will tell you in the industrial relations field, than amateur unionists. You should really know what it is all about before you take the plunge. Now how can you have the best of these two worlds? If you'll agree that there is nothing incompatible with professionals bargaining collectively, I suggest to you that you do this by first of all analysing the existing industrial situation, analysing the labour acts that have been developed in the various provinces and also in the Federal jurisdiction and see if professionals have an actual place there - a place where they can advance their professional standards and reap some economic rewards for services rendered. I think if you examine them carefully and, more particularly, the traditions that are being built up as a result of these pieces of legislation, you will find very little in it for the professional - very little indeed. Not because of the technical aspects of the act, because there are certain rights and obligations inherent in each piece of legislation, but because of the expertise developed as a result of these acts especially administered by and through labour relation boards and quasi judicial bodies of this sort. You will find that they are accustomed to thinking in industrial relation terms; more

designed for trade unionists than for professionals. As a matter of fact, when you bring to their attention the unique qualities of professionals, the average industrial relations experts dismiss this as mere pretentiousness or snobbery and it is very difficult sometimes to engage them in serious dialogue because they have such disdain and contempt for professionals who want to have their cake and eat it too, as they are wont to say. I found this very frustrating because I happen to believe in trade unionism. I think there is nothing wrong with being in a trade union. I think there is nothing wrong with exercising the strike weapon if and when necessary, and that one should not be too apologetic for that. However, having said that, I think that approach is wrong for the professional. I think something different is needed, and I think you have to then start looking at definitions. In 1966, the Institute of Professional Librarians joined with twelve or thirteen professional engineer groups, and the Ontario Psychological Association, and formed a Steering Committee on Negotiation Rights for Professional Staffs. This Steering Committee was charged with one responsibility and one only. The lawyer for this Steering Committee was none other than Aubrey Golden. I was his executive assistant and our purpose was to get this Professional Negotiations Act enacted through the Ontario Legislature, a special piece of legislation that was designed to meet the needs of professional employees. And in the process we have to define what we meant by profes-

sional employees. What we drew from was the "Taft Hartley Act", where a professional employee was defined, and we modified it to suit our needs. I would like to read it to you and get it out of the way because it is really quite irrelevant after the definition has been stated.

> Professional Employee means an employee engaged in the exercise of a predominantly intellectual skill in which he uses discretion and judgment and the result of which cannot necessarily be measured or standardized by units of time and who has been qualified by knowledge of an advanced type in a field of science or learning customarily acquired by prolonged course of specialized intellectual instruction and study in or with an institution of higher learning or hospital, as distinguished from a general academic education or from an apprenticeship or training of the performance of routine mental, manual or physical processes, and includes an employee who has completed such a course of instruction and is performing related work under the supervision of a professional employee but who has final authority with respect to the conditions of employment of professional employees and who is in a confidential capacity with respect to the relations between professional staff associations and employers.

We tested this particular definition with all kinds of experts, including industrial relations secretaries, and, as a definition, we think it is as good as any of them. But really, when you come to determine who shall be in a union and who shall be out, you will find yourself, if you are before the Labour Relations Board, going by their criteria, which has evolved through a history of experience. For this reason we have felt it was inadvisable and undesirable to come under that act because you would find yourselves decimated under that act and I think his-

tory has proved this right. You will find this in the nursing profession, you will find this in your profession, you will find it in many other professions which do not necessarily have powerful professional associations backing them. Also, you find many of the professional associations organize along different lines. They organize along lines of licensing registration rather than for collective bargaining purposes or employer/employee relationship purposes. Therefore, you find that professionalism and the Labour Relations Acts, which are being enacted throughout the country, are just not compatible.

Now it is one thing to have a theory like this, it is another thing to have the theory implemented. The Steering Committee in 1966 presented a brief to John Robarts, made numerous representations to Cabinet Ministers, particularly those who had the Labour Portfolio, and, after many, many years not until early last year did we get just a small crumb. That took the form of amendments to the Labour Relations Act where the exclusion clause for professional engineers was removed, which means that professional engineers have the same rights as professional librarians and a number of other professionals have had under the Labour Relations Act. Well, at Hydro we decided to test this, since we weren't going to get this Professional Negotiations Act after several promises and two provincial elections, candidates actually committing themselves to supporting our legislation if re-elected. We decided that we might as well try this Labour

Relations Act and we did. We tried it again with the assistance of our lawyer, Aubrey Golden, by simply asking for the services of a conciliation officer under the Labour Relations Board. Our unit of 1,200 engineers and scientists were having a difference of opinion with their employer over salaries and we felt that if we could bring in a disinterested third party we could dissolve the dispute amicably and go on from there. There was no thought at any time of strike action and we thought that, since this legislation had been enacted largely through our lobbying efforts over the years, we would test it and so we did. We had hearings before the Labour Relations Board. I found myself on the stand with some others. We were questioned and the upshot of it was that we were not considered a trade union, as defined under the act, because we had obviously managerial employees in our unit. Now this shows you or underlines the irony of this kind of reasoning. Of course we have managerial personnel in our unit, just as the hands indicated in this room, a lot of people feel themselves to be practising professional employees and part of management. 80% of our unit we estimate can be described as management. By management's own definition we are members of the management and professional staff of Ontario Hydro. Therefore, it seems a rather ridiculous question, if not ludicrous, from our point of view, to draw the distinction between employee and manager. Yet that is what the Labour Relations Board spends most of its time doing, and that is how you are going to be judged. So you have

a ridiculous situation such as you have experienced with the East York Board. The argument is based on whether or not this person is a manager, rather than whether this person is a professional or needs support as a professional employee. Whether or not he falls into some arbitrary category designed by the Board as to whether he is a manager or not, we think is the wrong question. Naturally if the wrong question is posed and the answer follows from the wrong question and it doesn't reach your needs, it is irrelevant.

So the problems grow and multiply and this is the problem that we have had. Now we do not know how much longer professionals can relate at this level in any meaningful way. We do know that in the Province of Quebec the situation has improved. We had a bill that died on the order paper at the Federal Government level. It gave professional employees collective bargaining rights at all levels and the cut off point in terms of managerial status was fairly high. We thought this was rather encouraging but the provincial government just last week passed a second reading of a bill taking away the right to strike of all civil service employees which, in itself, is a separate matter, but, at the same time, excluding all professionals, so you have a low cut off point. This means that all government employees crown corporation employees, no longer have collective bargaining rights, even though the Labour Relations Act is far more generous outside the public service. It is one thing to give pro-

fessional employees arbitration in the place of strike, which I suggest to you allows for a higher cut off point than you normally find in the unit. It is another thing to give them something of an inferior quality - the worst of all worlds - which is what the government has been doing to this piece of legislation.

I don't know whether this augers well or not for the future, but I suspect not and the reason why I suspect not is because the government, particularly this government, is going to take a very pragmatic approach. If the professionals are sufficiently aroused they will respond; if not, they will go their merry way. It just comes down to this basic cliche, that unless we are united in support of a common purpose we have no hope of really implementing the kind of legislation that we have been talking about, this Professional Negotiations Act. All we will succeed in doing is forming up separately. And I suggest to you this is what is happening across Ontario right now, indeed across the country, professionals are divided. They have endless study sessions - no reflection upon this institution. I don't know how many study sessions I have attended, how many speaking engagements I have filled, talking about the obvious, and what amazes me, time and again, is the intellectual grasp of the professional. They are trained to absorb theory and philosophy; they accept it intellectually, but emotionally they have hangups. They are emotionally immature when it comes to collective bargain-

ing, because they really do not know where they are at. They want something on the one hand because they see it's their natural due. They resent very bitterly plumbers and electricians and others who are doing better than they are. At the same time they want their status, but they confuse status and prestige with real power.

I suggest to you what is lacking is power, and we work in our free society in terms of power relationships. The government does not think in terms of logic and reason when you present a brief. It does not speak for itself. They want to know what kind of a wallop you will pack - how uncomfortable is life going to be made for them if you are unhappy. This is exactly the level at which they think. I have seen many professional groups and I have been part of delegations going before the government with some of the most beautifully drawn up briefs, that are works of art in themselves, and they are actually astonished that the Minister, and quite often his cohorts, have not even bothered to read the brief, because really that is irrelevant. What they want to know is, do they have to enact this legislation; do the have to respect your wishes, because they have got other concerns. And if the farmers are out there with their tractors, jumping up and down in the most irrational way speakable, that is far more important than what you are saying. Our society is a society made up of pressure groups. If you want a free society you have got to expect this, and these pressure groups are all competing

for their share of attention from various bodies, especially governmental bodies. I am a trustee on the North York Board of Education, and for the last two years I have been serving as Vice-Chairman. Every night, including to-night, we have delegations coming in of all sorts, pressuring us for changes. They have needs; and even though we respect logic and reason, well presented briefs, and good manners above all else, the fact is we invariably yield to those who will put the greatest amount of pressure upon us because we have to get re-elected. It is as simple as that.

So, if I have a message, it is to use your intelligence backed by your emotions for the right reasons. Together we can succeed, because professionals are in a very, very strong key position in our society. We live in a technological age. We do live by consciousness to values, as Charles Wright has pointed out, and our system is administered by and large by professionals and managers. If the leadership doesn't come here, God knows where it is going to come from. And the only thing it seems to me that is stopping us from leading people forth in the very best liberal tradition, is ourselves really, and that is what bothers me. I can't understand, in spite of being fourteen years in this field, why we don't work more closely together; why professionals seem to be very jealous of their own prerogatives; why they consider anything different as heresy. You just have to read the front page of the Globe and Mail this morning when

you see this poor MPP from Oxford, a Conservative MPP, the only dentist who got elected in the Conservative election apparently last time, telling the Dental Association that denturists should be admitted in the public interest. He is practically written out of his profession, and yet I think he is going to make his point. I think the time has come when we have to start challenging established authority, and I think you begin with your own professional associations. I have had a relationship with you through the Steering Committee since 1966. We have presented briefs together. I have written pieces for your publications and spoken to groups, but it is the same old thing time and time again. You have a very good intellectual grasp. You have a thorough understanding 'way beyond what the average trade unionists have of their acts and their regulations, but you seem to lack the will to do something about it. So the distinction I draw, and I will stop at this, is that there is a big difference between talk and action. I suggest to you that the time has come for much more action.

Margaret Boehnert

Collective Bargaining in the Public Sector — Aubrey Golden

A few weeks ago I had the great pleasure of meeting with you at your annual meeting. At that meeting I talked for a short period of time about a subject that has always interested me, that is, the basic concepts that went into the building of the trade union movement and the labour legislation that went along with it. I pointed out that professionals really do differ in their starting point in this area, and of course, making in another way the point that Val made a few moments ago, that is, that legislation is not written for you. During his talk, Val took a poll. He asked you about management, whether you regard yourselves as management or professional employees and showed that it was a dilemma. I don't have any such dilemma to present to you, but I would like to know how many of those here would, if given the opportunity, participate in a bargaining unit designed to collectively bargain with your employer? See, the same people. For those of you who would not, I am not going to assume that you would be against those who would, but you must understand that in labour relations there is a dichotomy and inevitably it does boil down to those who feel they are against those who are bargaining, against those who feel they are in favour of those who are bargaining. That does not mean they are against them at all levels at all times and all places, but they generally stand opposed to them in the area of bargaining. Now, there is another phenomenon in labour relations, and that is the right to be effective. The difficulty comes not when you

have a bargaining organization, but when you have an effective bargaining organization. Because if people do not want you to be there, then you have exerted your strength. If you do that, you have to have strength. There are any number of paper organizations, paper tigers or lions in this country and I think that the most unprofessional thing of all would be to be a member of one of them. I would rather see you not be a member of any of them.

I promised I would talk for a moment about historical assumptions. You come to the idea of collective bargaining fat, full, happy and free. On the whole you are not a starving lot. You have a certain amount of satisfaction in your work. You are not one of the industrial oppressed and you do not have, in essence, the same history as the people who created the trade union movement - the people who were responsible for forcing a great deal of legislature which we now have. You come in with an entirely different approach based on an entirely different set of needs. Back in the days when child labour was common, back in the days when to be a worker was to be on the verge of starvation, you have all heard the stories, and most of you use it for justification when discussing with others. You say, well of course the trade union movements were marvellous. Look what they solved. People didn't starve anymore. There were agencies and social reform - agencies of economic reform - and we attribute much of our high standard of living, including all the inflation that

goes with it, to the trade union movement. The fact is that governments never were really receptive to the trade union movement.

There has not yet been in this country a government which has been set up to encourage trade unionism, either as its object or one of its side issues. Now there are a few governments which are supposed to be that way - NDP Governments in Manitoba, Saskatchewan, and so on. Take it from me, it is not entirely true, and in the context of modern society it is only partly true, that they are even mildly encouraging the development of trade unionism. We hope it will get better. The fact is, that up until now, I am now talking of over one hundred years of history in Canada, trade unions have been systematically suppressed by government. Suppression has, in the initial stages, taken very blunt, direct forms. In 1875 we packed some Globe printers off to jail for forming a trade union which, in those days, was a criminal conspiracy.

In the days of the black plague in England, a shortage of workers developed and the people who ran the local industries in those days - and there were local industries in those days - decided that it was rather a dangerous situation that there should be fewer workers around than jobs. They were not stupid and they knew that that sort of a situation creates an increase in wages. This is in the year 1400, the days of the black plague. So they passed a piece of legislation which was designed for masters' and

servants' wages. It was designed to prevent people from asking for higher wages. So it became an offense to demand more money for your services. The act was sort of ignored as time went on, but not that much. It was still law. In fact, a Justice of the Peace could regulate the amount of wages a man should be entitled to get. Talk about collective bargaining! Your local Justice of the Peace, who was also your local landlord and feudal baron and whatever you call him, depending on the era, deciding, really in effect arbitrating, compulsory arbitration I might add, wages. The upshot was that any agreement to raise wages became an agreement to do an illegal act and that, in common law, is a crime. That is a conspiracy to do an unlawful act. Under that conspiracy law in the mid 1800's a number of people were prosecuted. You have heard of the Tolpuddle martyrs. They were packed off to Australia for engaging in such a conspiracy. In 1874, in the United Kingdom, because of trade union pressure, and incidentally the unions in England have been remarkably successful in lobbying for legislation - much more successful than we have been over here with our frontier kind of philosophy - they got legislation outlawing that kind of criminal conspiracy.

In Canada we didn't bother until 1875, and, in the meantime, there was a strike at the Globe. And George Brown, who was a noted political figure as well as a publishing figure, saw to it that a number of his employees went to jail as a result of that

unlawful conspiracy. Think of that kind of history for a moment - what that bred and the kind of fight that bred - and then think into the thirties with the depression and the Globe trade unionism as an alternative. Now trade unions were growing before the thirties, but in the thirties there was a tremendous thrust of economic need - people without anything better to do than organize themselves, for a great part - unions of the poor - radical farm groups growing up in the province for much the same reasons as radical workers were growing up in the province - and this is a reflection, of course, on the whole North American community. Here you have, all of a sudden, an effective Labour organization, the right to be effective, something the government did not want. Of course, you could not appear to make the man effective. What they did, rather than simply to disallow them completely, which is something we decided not to do in 1875, remember, was decide to pull some of their teeth, preferably their canine teeth. So they passed legislation which made recognition strikes illegal. A recognition strike was one which was, at that time, the only way you could get your employer to deal with the union, and it was a strike which went something like this:

A union organizer would get up and say, "I represent your employees and I'd like you to sit down and bargain with me." If he lived that long to make that statement, the manager of the enterprise, being a progressive, would say, "Well, you prove to me that you represent my employees." He'd say, "Well, you

just give me ten minutes then look outside your window." Well, of course, ten minutes later when he looked outside the window there would be all his employees out on the street looking in at him. That is how it was established that this union organizer represented his employees and that was a recognition strike. Since it was the only way to get an employer to deal with you, and since most employers didn't want to deal with unions, there were a lot of recognition strikes.

The Wagner Act in the United States was designed basically to prevent recognition strikes. Some bright guy thought, and it is not a bad idea in some respects, that it would be a great thing if you could develop a system where unions would not be permitted to go out in a recognition strike, but somehow this process could be replaced by some democratic means - that is, without a work stoppage. Every piece of legislation that has been modelled after the Wagner Act always includes this phrase "without stoppage of work." The United States developed their pattern in the late 30's, in 1936 as you can see from the outline date of the Wagner Act, anti-recognition, anti-recognition strike legislation, necessarily because if you couldn't pull people out and use muscle that way, you were going to get badly hurt, because the employer had the right to fire union organizers and leaders and anybody who showed sympathy and that sort of thing. So a certain amount of law had to be passed to protect people in order, not to protect the union workers, not really, in order to make this legis-

lation workable, because the employers wanted the certification procedures to be made mandatory, wanted the recognition strikes to be outlawed, but didn't want the other legislation that went with it. So the government had to ram a certain amount down their throat - so what it did - it said: "So, O.K., you can't fire a man for union activities." In those days, there was kind of a contract - a workers' contract - known as the yellow dog contract, and you can imagine why it is called that - that you agreed not to join a trade union as a condition of employment. You signed a paper, later on it became more sophisticated and it was agreed to verbally, and finally it became implicit. You didn't have to say anything. You just got fired if you did join the group and there was legislation designed to outlaw that. That legislation has been refined and developed and all kinds of machinery has been built up around it to the present Labour Relations Act.

The difference between Canada and the United States, there is only a mild difference to you, because you are basically interested in professional problems, the difference has been that in the United States the act that was passed in the mid 30's, during the new deal era, was passed in order to solve that point problem. Our legislation really came in the wartime period. We modelled some provincial laws after this in the 30's. But it wasn't until 1943 with the passage of PC 103, the wartime regulation, that we had what is basically now the Labour Relations

Act. That law had in it more restrictions on the right to strike than the previous anti-recognition strike laws. Remember I said you couldn't strike for recognition. Well, in order to get around that, you had to decide when you could strike. The American laws permitted one to strike when the contract was over. You could not strike to get a contract. You could stike to get one, yes, but you couldn't strike to get it negotiated. If you got them to negotiate and you could not make a deal, then you could strike. It was a cooling off idea, the same as we have. Then you had a contract. You couldn't strike during the right of the contract but only if you agreed not to. If you didn't agree not to, you could contract yourself out of the right to strike, but if you decided you wanted to have the right to strike, you simply didn't write it in the contract and the employer could lock out or the employees could strike. That goes on to this day in the United States. So there is a certain amount of freedom to strike in the United States contracts that we don't have. You can strike over a grievance, that is if an employee doesn't like or the Union doesn't like the way the employer is handling a particular kind of problem. It doesn't happen over one man. It happens over a broad policy kind of agreement. You can go out on strike because it is, afer all, a basic common law right to withdraw your labour. This was exercised by trade unionists quite freely, as you all know, for a great many years, especially during

those storm years.

In Canada, because our legislation was passed in wartime, it was more acceptable to talk about productivity - it was more acceptable to talk about stimulating productivity and keeping that up. We respected the right to strike even more than the Americans did. We would not permit a strike by law during a life of a contract, regardless what cause there may be. The fact that a contract expired had nothing to do with it. There was a compulsory conciliation process which was imposed before the right to strike was allowed. So here we have two essential differences from the Americans and, in spite of what you have heard about Australia, we probably have the most restrictive strike laws or anti-strike laws in the commonwealth world. That is sort of a sad commentary, but it is a fact of life that you have to face. All of this has been hedged around industrial unions fighting for basic - very basic - economic and social justices.

Until 1948, when the Ontario law was enacted, everyone was included. Everyone had their rights restricted. Some people did not need their rights restricted: (a) employers, in terms of the right to strike, they just didn't have the problems; (b) professional people, generally speaking, were not a pressure group within this context and didn't require it. In 1940, the Ontario Legislature very carefully wrote out the right to strike out of all legislation all these groups, who they didn't think

really had anything to do with collective bargaining - doctors, lawyers, architects, land surveyors, engineers. Librarians, I am sad to tell you, were not considered to be a significant group, neither were social workers and a number of other groups who are now rather significant in our society. What they did was, they freed these professional groups from the restrictions that had been systematically built up around the industrial trade union. Only they did not appreciate it.

I have spent the last five years trying to tell the engineers that they were freer than anyone else because they were not covered by the Labour Relations Act. This organization, as I understand it - I'm beginning to understand it better now that I have spoken to you - came into existence largely because it was legally possible for a trade union to organize librarians. I think it maybe came into existence for somewhat negative as well as positive reasons. The engineers at Hydro had a bargaining unit and a collective agreement before 1948, and even afterwards, by the way. Hydro had their teeth pulled, but they let them go on and have little agreements that turned out later on they didn't have to have. Then one day they said, "Sorry fellows, we are not writing a new one," and there the engineers were. They couldn't do anything about it except go on strike, which they wouldn't do - just like you won't - just like other professional groups won't. So, you got legislation predicated on the right to go on strike. That's the muscle in it, built

in a history of industrial conflict, built to repress recognition strikes and all the things that go with it. Built to build fair labour practices where fair labour practices mean that you fire people because they belong to unions or unfair labour practices mean that, and this is nothing more than a more detailed way of saying that Val is absolutely right when he says that this law was not a law that you could really adequately make use of. On the other hand, it is the only one you've got, so let's start thinking realistically.

We spent five years trying to get them to change this legislation. Maybe one of the things you ought to do is try to get them to change it a little more. Val mentioned to you that there was a section of the act bringing engineers back under the legislation passed last year. It is true. We found it totally useless because a managerial sort of bargaining unit just simply does not qualify under this legislation and we've been told that actually we don't exist as an eligible organization under this legislation because we have all these managerial people in there. We have one man who was one on the executive, I think - I don't think he is anymore - who runs 1,000 people in this particular bargaining unit. But they have not had the imagination or guts, I suggest mainly guts, to develop multi level managerial areas and permit people to organize in one level without necessarily affecting another one. They're frightened of the idea without knowing what its implications are.

Where strikes are not a weapon, the unity concept that's so important to a strike is lost. It is significant that in the industrial section, and by the way hospitals, believe it or not, are included in industrial sections because many of the unions that organize hospitals organize along industrial lines, have found their unions emasculated now by arbitration. Oh, they still exist and they get their cheque off and all that sort of thing. The employees of the union have a certain amount of spending money and it all works out fine. Except that as trade unions, as powerful organizations, they have lost their organizational drive. They've lost their meaningfulness. Their membership meetings are reduced to nothing but a few people who sort of turn up because they want to be on the next executive, if they are not already on it, and the whole thing is a farce. The reason it is a farce is because those unions do not have to prove their worth anywhere. They have to prove their worth only once - just organize. Once they organize they go for a negotiated collective agreement. They are not going to get what the employees want. Management is not going to give that. And, on the reverse side, the employees aren't going to accept what management offers. Everybody postures for the inevitable arbitration. We hope that with the Steering Committee's proposals we have solved some of the problems to do with arbitration. But, in an industrial setting, it's very difficult to keep an organization alive, alert and earning its keep - active - you know

what I mean? - when it doesn't have to prove its worth and prove its strength. It doesn't need strength to arbitrate. All it takes is a few logical people who can write a nice brief and enough money in the kitty for a cheque off to hire a lawyer to present it. And that's what's happening to hospital unions, and so on. Although they are good unions, these locals tend to get very weak. I act for one union that has employees in a number of different places - it has very small units all over - and their weakest links are in the hospitals. Their weakest units are in the hospitals and it's not an accident. The hospitals can't strike. They don't have to stay strong. They have no incentive to stay strong.

Well, what are you going to do - you are not going to strike? Librarians organize into groups and bargain as they did in Hamilton. I know that was a very encouraging development. There were disturbing problems there, having to do with managerial exclusion to the bargaining unit, which they are probably going to face constantly. What are they going to do? You are watching people get scooped up around you and in some cases you said, we want to be part of that unit. In other cases you said, keep away from us. Sometimes the unions have described a bargaining unit which includes professional librarians, but that really hasn't happened yet in a specific situation where you have to fight it out. In other words, there has been little opposition; but it is going to happen. It's happened in situations where

they have politely stated, "Well, you can have professional librarians." - because the Labour Board will let them have almost any kind of unionism. An infinite variety of librarian's units are available now if you read the Board's decisions, but ultimately they are going to settle on one area. I suggest to you that they are not going to agree to a bargaining unit that excludes librarians because of the anti-fragmentation policy they have got unless the librarians themselves come forward with their own bargaining program and their own organization. Then maybe the Board will listen to more applications like the Hamilton application and recognize that being a librarian is like being a craft, because, unfortunately, you have to talk in their terms. The Institute, as I suggested to you before, cannot bargain and preserve the structure of its existing membership. I think that this organization has gained a lot of merit and a lot of weight from the fact that it has got this kind of membership; that it has got a broadly based membership, vertically; that it has no hangups about who belongs, as long as the minimum requirements are met. It is important, perhaps, that you try to take in as many people in that area as you can. You're not going to bargain if you do that because you're disqualified automatically.

So what you are going to do? You are going to split off organizations that are going to bargain. You are going to encourage them and you are going to help. You are going to follow the same pattern as the Registered Nursing Association follows.

If you don't, there's nothing for you to do but sit around and discuss it. You may as well do it in academic surroundings because all it's going to be is an academic exercise. On the other hand, if you do decide, and I suggest that you are undoubtedly moving very quickly in that direction, to encourage bargaining organizations, then you are going to have to come to them with a program and the I.P.L.O. is going to have to do something. What you are going to have to do is, you are going to have to work on the government with the kind of muscle that Val was talking about - get them to amend legislation for you too.

Now we drafted a beautiful piece of legislation which you helped us sponsor. Your name is on the brief. We did get one thing, a sop, a minor thing, but it is going to help us a bit in the future. Professional engineers were defined under legislation. Professional librarians may be able to be defined in the same way, although I think with a little more difficulty, because professional engineers are licenced to practise and it is pretty easy to say you are entitled to practise. Licencing isn't the only way to get labour laws, by the way. There are a lot of unlicenced engineers practising as engineers, including a number in Hydro for that matter, and there is no way you can restrict it simply to licenced personnel. But you can decide who can do it and who can't, if you can get that kind of a dividing line that will define professional librarians, then you might be able to take advantage of something that the government has already done

for the engineers. They wrote a separate section into the bargaining unit section of the Labour Relations Act and it reads as follows - you've all got copies of the act. It is 6, sub section 3. Now this section was just passed last year and it satisfies the same kind of theories that you all have, and it satisfies the engineers.

"A bargaining unit consisting solely of professional engineers shall be deemed by the Board to be a unit of employees appropriate for collective bargaining," - So that means that they have solved your problem of whether or not you can have a pure unit. "But, the Board may include professional engineers in a bargaining unit with other employees if the Board is satisfied that a majority," - not of all of the unit, but, "of such professional engineers wish to be included." So you have all those options. So all these engineers in a unit can say, "O.K. I want in," or "O.K. I want out." They can say, "O.K. East York," or "O.K. Hamilton," or "O.K. University of Toronto." They can do it any way they want. It would be a fine thing if you got that because, really, what is music to your ears is that you want the professional librarians to have their own separate community of interest and I think you ought to think in those terms.

Now a lot of law has been built up around appropriate bargaining units. Whether or not one group is appropriate as opposed to another group; whether or not all the library staff is appropriate as opposed to the professional librarians on the one

hand and all the people that do all the other things in the library on the other hand. That kind of discussion can be somewhat helped by the way you bargain. I said you were going to have some discussions about bargaining programs. You'll notice that I'm talking to you now as if you are going to organize to bargain. I'm also talking to those of you who indicated that you didn't want to be in a bargaining unit, because I think you are going to find that after hearing some of these things you might either (a) change your mind or (b) have a better understanding of those who will be bargaining on the other side of the table with you. You all have management aspirations. I don't know what we are going to do in the libraries because we are going to have a library full of chiefs and no Indians. I think you will agree with me that the trend is to broader staffs and the librarians will have their own unique place in library systems. Not all librarians are going to be managerials. One of the things you must think about is the kind of issues you want to determine. Why organize? Why try to get management to meet with you? I will talk for a minute about the many kinds of management you have to deal with too, which creates other problems, but I would like to read to you something that was written a few years ago by Shirley Goldenberg who is professor of Economics at McGill University and she was engaged by the Federal Task Force on Industrial Relations to do a study on professional workers and collective bargaining. She did an excellent job and,

by the way, this is a Queen's Printer publication, Study #2 about a group of Librarians, catalogue #CP32-6/1967-2. Mrs. Goldenberg, on Page 84 of her study, talks about professional issues. I would like to read a few paragraphs from what she has to say:

> When professional workers and their employers adopt a collective bargaining relationship, the issues that arise include, but may go far beyond, the wages and fringe benefits that are the main concern of other categories of employees. The problem of handling particular professional needs within a collective bargaining relationship is complicated by the following factors:
> 1. The conflict between "professional prerogatives" and "management rights".
> 2. The problem of recognizing individual achievement in the framework of a collective agreement.
>
> Professional Prerogatives vs. Management Rights - Not all professional demands constitute a threat to management rights. Provisions for continuing education, sabbatical leave, paid attendance at professional conferences, even additional supporting staff, may be considered as simple cost items and have, in fact, been amenable to negotiation as such. Other demands, however, emphasize normative rather than monetary issues. Because they are concerned with protecting the professional role and with assuring the conditions and standards of professional performance, these demands, by definition, would place limitations on management prerogatives and discretion. By posing the issue of employee participation in policy decisions, they challenge some strongly held management views and have, in fact, provoked considerable employer resistance. It is precisely these normative demands, however, that have dominated recent professional negotiations.
>
> Some normative demands, by nurses and engineers, for example, have been concerned with protecting the professional role from the incursions of para-professional types (nurses aides, engineering technicians, etc.) Other demands concern the right of professionals to control the conditions and standards of their professional performance. Thus we find teachers demanding

> a voice in curriculum planning, classroom size, disciplinary procedure; nurses concerned with patient load, supporting staff, etc., engineers insisting not only on the right to sign their own work but, the ultimate in professional protection, the right to withhold their signature from documents that do not meet professional standards. Teachers' and nurses' disputes in particular, as well as last year's radiologists' strike in Quebec, have shown that normative demands by professional workers are frequently less amenable to compromise, by either party to the bargaining relationship, than are accompanying monetary issues. With a growing conviction on one side that participation in policy decisions is the essence of professionalism, and a strong resistance on the other to any incursion on management discretion, recent negotiations on normative issues have frequently ended in stalemate.

We'll stop there, but there is plenty more to read if you wish to follow it up.

I'm rather fond of going to groups like this and telling you how hung up you are, and how status conscious you are; telling you all about the fun we had when we drafted this legislation; making sure our own people would accept it - never mind the government. Nobody cared much whether the government would accept it or not, but we had to get our own people to accept it. The government didn't accept a lot of it because it had a snob element in it that was unbelievable. The ratio of snobbishness to normal human relationships in that brief was abnormally high. Well, what we did was we put in it something which we called the music. We didn't have bargaining, we had negotiations. We didn't have trade unions, we had professional staff associations. We didn't have collective agreements, we had professional staff

agreements. We had to call it "agreement" because no other English word would cover the problem; perquisite instead of fringe benefits, etc. I had to fight for about six months to get them not to write the right to strike out of the document. I said, you don't want to strike don't, but for gosh sakes, don't write it out of the document. All of this went on with really ourselves being our worst enemy.

You may wonder why the kind of issues that Mrs. Goldenberg talks about in those two pages that I read become issues. Why wouldn't the employer of a professional employee want to have a better professional employee? Why wouldn't he want to use him as a true professional and get the most out of him? Why wouldn't the Library Board want to have the best Librarians in the country working for them? Why? Because they've got their hangups too - you'll be happy to hear. We're not the only ones with hangups. But their hangups are based basically on their attitudes towards unions, organizations and bargaining, and you can't avoid it. The minute you become effective you are going to be called a union whether you want to be called a union or not. The Labour Relations Act won't even let you qualify to come in the front door unless you can qualify as a trade union, and they won't let you call yourself anything else. Management hangups come from the fight, and I found it very significant that, in the Hamilton case, there was one of the more enlightened management labour lawyers, that is, labour lawyers customarily en-

gaged by employers, acting for the Library Board, and what was the first thing he did? He systematically cut out the branch librarians - the branch heads. There was a little mythology there, you see, because there were categories, two, three and four, and certain ones higher up on the ladder had what you might call managerial functions. But instead of just cutting out the fours, he strategically got them all cut out. They ended up eliminating them all, a nice strategic ploy, a management stratagem, something you do when a union is organizing your employees, you try to cut some people out. It is a numbers game. As long as you're satisfied that the union has got enough and you can't beat them that way, then you try to cut them down. If you don't think they have enough, then you try to increase the size of the group and you knock them out completely, for they would have to measure against a larger group of employees. It's as honest as that. The point of the exercise really is that the Hamilton group got a standard management stratagem pulled on them.

Now I have always felt that it was wiser and better, in professional kinds of bargaining organizations, to have more senior people in the organization - better for everybody. For a professional group, to encourage these people to think and work together, it's better not to cut them off at a certain point and demonstrate there is no mobility past that point. They should have the feeling there is mobility from the time they enter the Library service until the time when they sit on the other side

of the bargaining table. At that point you can't help it. At that point there would be a direct conflict of interest at the bargaining table. Up to that point, why not? Give me one good reason why they should not be a member of the same organization and why, in so far as the working conditions and terms of employment of librarians are concerned, why they shouldn't belong to the same organization. What they do, of course, is they provide greater insights and, if I may say so, a greater amount of sensibility in the bargaining posture and a greater opportunity for dialogue with the people who do, in fact, exercise managerial functions. What they are doing is artifically cutting a unit in half or three-quarters, and they are destroying the professionalism they should be trying to encourage by telling people, "Oh, no, if you want to bargain you're down there." You are not really a professional, is really what they are saying, and you can't afford to let them get away with that attitude. You've got to make the fight somewhere. Now what we have got to do, we have got to break down this managerial function concept that the Board has been building up.

Now that is something the I.P.L.O. can do, as a provincial organization with, I think, some respect, and I am sure some ability to organize. Because I have seen a number of effectively organized meetings, I am sure that they can do this much for their members and for their profession, and they should do it now. They should opt for the kind of subsection that I read, the one

that the engineers how have. That will require some definition of librarians and they should also pressure for an uplifting on a managerial function for professional units. The criteria doesn't have to apply to the Chrysler plant in Windsor. The Chrysler Corporation needn't fear that the guy who is punching three holes in the rear end of an automobile, as it goes by every two minutes, is going to end up bargaining with the general manager, that is, on the same side of the table as the general manager - not really. If government thinks that way, you've got to tell them differently. We've all got to tell them differently. Until we solve that problem, we are not going to get out from under. Fortunately, the Board was, I think, hurt and troubled by our attitude. We went in and applied for conciliation services, as Val mentioned, with the engineers, right after this legislation came in. We said, "Look, we're the bargaining agents for these people. We've been representing them for years and years and years." We produced collective agreements going back to 1944, and the Board agreed with us. They said, "Yes, certainly you were, but you have these managerial people, so you are not a trade union." Afterwards, I had a meeting with the Chairman of the Board who made this decision and he said, "Why don't you apply again for certification?" and I said, "What, and have you knock us silly again? We stuck our toe in the water to see if it was warm or cold because of this new legislation and we wanted to see whether we could use it or not. We're not stupid. We

now realize we can't use it." "Oh," he said, "come back again. It will be O.K. We'll work things out."

How are you going to work things out? Are you going to change your attitude - change your decision? I've been watching with some hope, and I read this decision in February 1972, and in Hamilton, and I read other decisions and I don't have any hope yet. I think it will come. I'm beginning to wonder when, but I think it will come. But obviously it is not going to come without some new legislation, or at least without some considerable pressure. This wouldn't be the first time a Labour Relations Board took a government off the hook. If you put heat on the government, then wham! the Labour Relations Board comes over with a new concept. Now let me give you an example of that, just for fun, then I'll stop my remarks and I'll answer your questions. The office of Professional Employees Union, which is a modest international union - by modest I mean not large by our standards - has been trying to organize bank employees for many, many years. One of the greatest stumbling blocks they had had is that the Canada Labour Relations Board has always felt that, because the Bank is from coast to coast - Bank of Nova Scotia with branches all over - they cannot organize within only one province. They've got to organize all their employees to get a majority over all, and it has made it virtually impossible for them to organize. Even though certain banks, obviously, have provincial areas of concern and could be organized on a province to province basis,

they are under the federal jurisdiction. Constitutionally, you see, banking is a federal matter - another piece of nonsense in our labour laws that David probably mentioned to you. The Canada Labour Relations Board ruled this way a number of years ago and it has never changed its ruling since. No federal unit can be certified unless all employees across the country are covered by an overall majority. That is pretty hard to do. Well, about four years ago there was a tremendous outcry from Quebec about the fact that the Canada Labour Relations Board didn't have any members of the C.N.T.U. on it. Remember that? The Confederation National Trade Unions was organizing very heavily in Quebec and, ultimately, they got into the Federal dispute. They started organizing the C.B.C. employees. There was a big producers' strike, if you remember, in Quebec - all illegal because they didn't organize the C.B.C. across the country. They just organized it in Quebec. The government came out in a terrific heat and a bill was brought down. This bill said that it would be possible for them to have a representative on the Board. In fact, that's what it did. The wording of it was rather obtuse. They went about it by reconstituting the Board. Now what I meant was that they could have a representative on the Board and this was supposed to be the sop to Quebec. Well, they weren't taking sops in those days and they raised hell again. It became a political crisis for Pearson and what happened was, the very next application that was made - there

were a few pending at that point - to the Canada Labour Relations Board, they awarded a provincial unit, broke about twenty years of precedent, just as easy as that. The point is, you put heat on the government and you may not have to get legislation changed. The word may filter down from upstairs. I think you ought to try it. Now I have covered a lot of ground. I covered legislation amendments. I covered status and hang-ups and I covered some proposed lobbying that I think you ought to do. I think the time has come to sit down and, speaking for Val and myself, we are both prepared to answer any questions as long as they are already developed.

Margaret Boehnert

Question: Why would professionals not want to be in a bargaining unit with non professionals?

V. Scott: I think one of the main reasons why you would be against it would be because you have a natural historical unity of interest as professionals. When you are mixed with a group of tradesmen, you will quite often find the emphasis is different, even though their aspirations are as legitimate as yours. You are interested in developing your professional expertise, in updating your knowledge and in becoming more effective as a professional. Now if you are lumped in with a trade union group who perhaps are more interested in so many more cents an hour, you will find that something has to give. Quite often you will find when you are in an organization like this you have to abide by democratic rules, which means majority, and invariably the professionals are outvoted. Quite often your items are traded off in favour of the items which the majority want. In the end you are outnumbered when the crunch comes, and, for this reason, I think most professionals want to shy away from the trade union groups because they lose their identity. They also lose their effectiveness. In return, of course, they have more power because there is a close correlation between numbers and power. There are reasons for joining an all inclusive union. There is strength in numbers and I do think that a lot of the divisions are artificial, say, between professionals and para-professionals. But still, the mystique prevails and one of the things I have

learned since I have been in this business is that it is not what is, so much, as what seems to be. In other words, if your consciousness tells you that professionalism is unique, distinctive, and should be independent, if that is your attitude, I really cannot reach you unless I take that into account. I really cannot communicate with you, even though I may believe you are fundamentally wrong. Often I find myself in the paradoxical situation of disagreeing with the very people who employ me because their premises are faulty. But I cannot communicate with them, much less serve them, unless I understand their nature, their hangups, and work through them. It is mainly an educative role I have.

Question: Do you think that librarians, as a profession, should band together, or do you think we should go after our individual institutions? For instance, should public library librarians tie up with CUPE because that is a very powerful organization?

A. Golden: I think there are disadvantages with joining up with CUPE. There are advantages, but at this point, I think the disadvantages outweigh the advantages. Personally, I would like to see you do it because some of the things that are wrong with the trade union movement, which form a valid reason for your objections to joining it, could be cured if there were an influx of people who could change it. The professionals and the more sophisticated white collar workers could change the complexion of the labour movement. The labour movement is, to some extent,

hoping for it (until it happens, that is) and we will probably end up with a multi level trade union organization in this country somewhat similar to Sweden. It will take us about twenty years to wake up. Eventually we are going to end up with a broadly based professional organization; the reason being, that it will be easier to organize from a profession by profession base to a federation of professional organizations, than it will be to go through the trade union movement. The fact is, that the average professional simply will not identify with the trade union movement, but you still have to have a lot of the attributes of the trade union movement. You must have a bargaining unit. Don't think that collective bargaining ends with getting a certificate from the Labour Relations Board. That is where it begins. It is a unique system where you have to exhaust all your resources and energy just to get the right to sit down at a bargaining table with someone who is supposed to be civilized. It is an unbelievably corrupt kind of legal process - the worst kind. You will waste a lot of energy doing it. You will have to have enough resources to go further. Your resources are obviously going to have to be drawn up from your personal involvement because you do not have huge war chests. You cannot afford to hire a lot of people to do this kind of thing for you. Anyway it is better for you to do it for yourselves.

Question: Despite our professional hangups, what is the mechanism that can provide us with collective bargaining ability?

A. Golden: You start with activity. You forget your professional hangups that will not allow you to ask for more money. You have to forget about your dignity. Every time Val and I go to a meeting like this we end up talking about the professional hangup. The problem really is that the people involved see what they are trying to accomplish only in the light of what they think they are. What you do is, you gather the reins of power in your hands as best you can, and then do with it what you want. If you want to be powerful, to get professional perquisites so that others come chasing after you asking to be let into your association, go ahead. If it is a good idea to join with the academics, then do it. Do it for a position of strength. Having strength does not mean you use it unwisely. It means you have your options. What you should be concerned about at this point are techniques. Now, having said all that, where does the professionalism bit come in? It is now no longer a problem to you except if it gets in the way of your drive or push. Then it becomes the problem that Val deals with daily. You have to take a positive position. You cannot cater to all the points of view. If you cannot swing people by your positive position, you are certainly not going to swing them by catering to all the negative ones. See your objectives clearly. Your objectives really have to be organizational strength and power. It is not a dirty word - power. It is only how you use it that may be dirty. You go on from there. You go to a seminar for two or

three days and become all "un-hungup" and then go back to your people and convince them.

Question: What do you do once you are organized? What do you ask for? Who ought to be in the bargaining unit and where is the cut off line?

A. Golden: Well, I would cut it off in the case of librarians right at the person who hires and fires them. That is, the person who hires and fires librarians. I am not talking about the person who hires and fires the clericals, maintenance workers and so on. I would cut it off at the person who sits on the other side of the bargaining table. Now the board will not. The board will find an artificial line, more by guesswork more than by any kind of realistic measuring stick. That is the point you have still to make. That is the point I asked you to turn your minds to as a program for the I.P.L.O. O.K. Let us start there. You include all persons who do work similar to that done by those who are acknowledged as professional librarians. Remember that when I talk about professional librarians. You say, all professional librarians, save and except the head librarian and, and it is the "and" that is the big problem. I would just say "except the head librarian" and let them fight about the rest.

Question: Can you bargain for a style of management, such as having a part in decision making?

A. Golden: Yes, of course. They do it in industrial units.

Question: Is it not true that management have all the rights

except all those they bargain away? The union can bargain for anything they like and, if they get it, they now have that right.

A. Golden and V. Scott: That is right. It is a residual theory. A residual theory is that everything resides in management.

Statement from the floor: I think that one should exclude what is reasonable to exclude. That means not only the chief librarian, but the assistant director too. I am speaking from our own experience. After the union was formed, they asked for everybody to be included in the bargaining unit, including my confidential secretary, and so on. Now obviously the management would be stupid if they agreed to it. This delayed the certificate for six months. If the union had asked for what they were entitled to, there would not have been any contest.

A. Golden: Unions should not be unrealistic, but there is a strategic problem involved and it is this. First of all you sit down and negotiate with yourselves to decide what you had better not ask for because it would be too much. That becomes your base position. But you find yourselves still getting flak because this is a fight. You have to get used to the idea that this is a fight.

Statement from the floor: If the union had asked realistically for what they wanted, the agreement would have been signed in

two weeks.

A. Golden: No. If the union had guessed what the employer would ultimately go for, then the agreement would have been signed in two weeks. The point is, that bargaining techniques are not as simple as all that.

Statement from the floor: Bargaining is bargaining, and if you ask for so much, you are going to be bargained. That is all there is to it.

A. Golden: The point is, that bargaining techniques are not that simple. There is a great new process of education going on. It is just beginning now. It is a very hopeful sign. It is going to take an awful lot of education, though. It goes like this. The responsible union leader goes into management and says, " This is what we want." Management say, "Aha! That is his bargaining position." The union leader says, "No. It is what we want. It is what we are going to stand on." Then you bargain and bargain and bargain and nothing happens. So then there is a strike and finally management learns that that really was his bargaining position, and it really wasn't an unreasonable one. Until we get over the idea that this is some kind of a horse trading proposition, nobody is going to get realistic. I am a great believer in this process and I would like to see it universal, but I will not permit any client of mine to do it because I know what the reaction of management will be. There is no point in negotiating with your-

self. I take what I think is a reasonable, but high reasonable, position. I am willing to be negotiated down to what I think is the only position - no - not a low reasonable position. A low reasonable position is where I hope management will begin.

Question: So, you would go for the padded budget rather than a realistic budget?

A. Golden: Yes, and you have to. If you get into compulsory arbitration you will find the posturing much more extreme because the arbitrator works on the premise that one will ask for the moon and the other for the depths of hell and the adequate level is somewhere in between. So, if you do not ask low or high enough, then you will not be able to swing the arbitrator up or down. That is one of the great problems we have in arbitration, but it is too complicated to go into now. Good labour leaders and good management are all doing the same thing. They are saying, look, there is only so much available, here it is.

Question: What happens in a case where librarians are in a union, they did not opt out. Then, in some distant future, a union is formed of just professional librarians and the librarians who went into the union wish to pull out. Where would they stand legally?

A. Golden: They could do it at the end of the contract legally. Before I could say that the Board would definitely agree to it, I would have to be able to see a history of these professional librarian bargaining units, so that you could say to the Board,

"That is a viable unit." The Board will not permit fragmentation unless there is a very good reason to do so and the only good reason, really, is that it is being done widely.

A. Golden: (Question is not on tape, but the discussion is back to organizing a union) You have to give your people what they want. You will never organize them unless you give them what they want. I am projecting into the future - you have a nice organization of maybe five regional locals of professional librarians. You are bargaining like crazy with all these library boards and you are getting somewhere. All of a sudden you find out that if you really come down to the final strokes of a bargaining situation, your employer is prepared to use the para-professionals against you. So then you have to go to them and ask them, "How would you like to join us?" It cannot happen now, but do not let it happen. Your first job is to get people to band together and organize. From there you go to what happens if you bargain. From there you go to what happens if your bargaining breaks down. To think ahead a little, I think you will find that what you start with now will become less important as reality take over.

Question: Do you mean that the bargaining unit will expand, that it will have to expand in the future, beyond the professional?

A. Golden: It looks like it. On April 24th, at the meeting, there was quite a bit of consternation over the suggestion I made that you could not limit your bargaining unit only to people

who had degrees. Anybody who is doing the same work as a professional librarian is going to have to be in the same bargaining unit. Whether he is a member of I.P.L.O. or not, whether he has a degree or not, does not matter. What matters is that he is doing that work. That is all the Labour Relations Board will ever look at. You can go that far and get a bargaining unit, it is beginning to look like you can do that, especially if you start doing it. If you start doing it, you are going to create your own precedent which will be useful to you later on. What happens is that CUPE is going to come along and pick up all the rest. Then it is going to be harder to get them and then you are going to have problems in the future with bargaining strength. You will have to rely on the integrity of CUPE to make sure that you do not get strike broken. Now, you are not going to go on strike, I am sure, but your ability to go on strike is the only thing that is going to make your employer talk realistically to you at the bargaining table. You will develop other techniques to get around that. You will develop publicity techniques. You will embarrass them. You will develop political techniques and, if you are an academic librarian, you will get the students working for you.

Question: What about librarians who are in a union? Do you feel that librarians who are already in a union are damaging the prospects of the kind of professional union we are talking about here? Should they get out of, say, the CUPE union?

V. Scott: If you can get out! I do feel that professionals who get absorbed into large union organizations do tend to lose their identity and take on the values of the larger group and live by those values. I think they make a contribution perhaps because they have the intelligence, they have the capacity to absorb knowledge at a greater rate and that sort of thing, but they are not quite the same people. Having said all that, I don't see much evidence that the professional associations, which are separate and distinctive, are all that much better. They can be better, and this is where I place my emphasis. I am more concerned about the consciousness of the professions than their equable abilities. It is what you do with your professionalism that counts, and my complaint is that you do so little with it.

A. Golden: But do not opt out. If you are in a union like CUPE you probably cannot opt out. There is a law developing now which might, in the future, let you opt out but do not, because you have nothing else to go to.

Question: All this philosophizing is fine but are you suggesting we stick to the profession groups? What do we do? There is no professional bargaining unit available to us. Are you saying that each of us, as a professional association, should make a submission to the Board to ask for certification as a bargaining unit for ourselves - like Hamilton?

V. Scott: I live in a very practical world all the time. I

make practicial decisions. I live on practical terms, but it is rooted in philosophy and that is what is really important. If you have a sound philosophy, if you really have a frame of reference, you can handle practically any practical problem. You really can. That is not hard.

Question: Well, tell us how?

V. Scott: I am trying to, but you are looking for a flow chart - a blueprint - and I am saying that it doesn't lend itself to that kind of answer. What I am trying to say to you is, first of all you have got to change your level of consciousness. You have got to think in more imaginative terms. You have got to commit yourselves or re-dedicate yourselves to your professionalism and than say, "All right. What do we have in common with other professions?" I went through this with the I.P.L.O. with the Steering Committee. We had psychologists, engineers and recreation directors, to mention just a few groups, and what for? They wanted a professional associations act. That professional associations act was based on a certain philosophy of professionalism.

(The remaining portion of this discussion was not captured on the tape.)

Margaret Boehnert

Contracts, Bargaining, and Grievances — Fraser Isbester

Mr. Isbester began his talk by asking the group who belonged to bargaining units and who did not to find out the composition of his audience. Then the main topics of the talk were analysed. We would deal first with the question of the arguments for and organization of professionals in unions. We would examine in detail a union contract which we had in our kits. We would discuss why professional people join bargaining units. We would discuss the mechanics of organization and then collective bargaining. We would discuss who is at the bargaining table and who is not at the bargaining table and what are the unseen presences at the bargaining table. We would discuss the administration of contracts. We would examine the grievance process. We would try to understand what a grievance is under a contract and what the arbitration procedure is.

Mr. Isbester stated that he had negotiated on behalf of management so that this was his conscious bias. It was felt that there would be soon the organization of professionals in Ontario. The collective bargaining process itself has been a fairly recent phenomena. It began about 1903 and its development has been compressed into the last 25 or 30 years.

Collective bargaining applies to the statutory complicity of the government with a group of employees who have banded together to seek and to receive a licence to oblige the employer to negotiate with them over their wages, hours,and working conditions. This legislation dates back to 1944 in Ontario. Quebec passed its Labour Relations Act first so that it would avoid coming under Federal legislation. There has been collective bargaining around for some time in the printing trade and construction industries but for the average man or woman collective bargaining didn't begin until the wartime years. Collective bargaining began not because of sympathy with the working man, but because workers were increasingly outspoken. During 1941-1944 there was a rash of serious strikes some of which completely closed down industries such as the aluminium industry. These strikes were not over wages or working

conditions but over the demand of unions to be recognized. All the unions wanted at this point was for the management of the company to say that the union could be the legitimate representative of all the employees of the company and that the company would negotiate with the union. The companies resisted vigorously until finally there was the introduction of the third party through statutory rights and out of that has grown collective bargaining as we know it. It's interesting to watch the cycle of organization of different groups. In the 18th and 19th centuries in the United Kingdom and Europe the crafts and trades lost their identity as craftsmen and tradesmen. They lost their tools and their skills. They lost their place of work and so they gradually coalesced into a bargaining unit. This coalition into groups comes about from the kind of society, from the managed economy where all kinds of professional people are also moved into factory situations. Many library and hospital managers feel that they haven't done a good job and that this is the reason for organization of employees. This interpretation is not correct. The society itself is pushing people towards organization.

Also the whole question of identification of status perception of professionals everywhere including university teachers certainly is being challenged in a number of different ways. One could look simply at the economic picture and see what is happening to the rate of increase in wages of people in job work whic is less demanding in terms of admission requirements, less demanding in terms of maintaining the skill and the knowledge and which have traditionally been regarded within our society as occupying a lower place on the occupational ladder and they're moving up economically. They are moving ahead.

Most people don't think in egalitarian terms. They think in heirarchical terms. Professionals see themselves suddenly behind certain groups with less education. The simple economic circumstances of the librarian, teacher, nurse and the engineer at which he finds himself at a fixed level of income with only modest increases impels him towards organization. Also the

existence for the first time just in the last ten years of highly organized central bodies who can provide assistance; who can get out and organize; run campaigns for people; provide the kind of assistance needed in organization; give the kind of assistance needed before the board in seeking certification is in a sense a temptation to organize. It draws one towards organization and so just the presence of the organization itself makes organization more likely.

Another aspect to organization is political commitment. The unions have identified themselves with political causes such as Stop the Spadina Expressway movement. These movements are attractive to professionals who have given more time and thought to community life than the average individual. They perhaps write letters to editors; circulate petitions and try to cause change. The union therefore is received as an instrument of political change quite apart from its capacity to change situations within the library, schools, or hospitals.

References were made to change and the effects of change on people. Unions once they gain control of jobs can influence change. They can maintain people in jobs. They can help to allow change to take place at a pace that is compatible and tolerable to the professional person.

Again it was stressed that unionization comes about through the force of external circumstances because of influence of change, influence of comparison, influence of professional pressures. Unionization doesn't necessarily come about through poor management. It might come about through fear of change, through fear of technical innovation that would deplete jobs.

Management can use unions to work for them. Instead of dealing with individual grievances for one or two hours a day an executive can have the union do this for him through a grievance committee.

Here there was a discussion of the recognition of bargaining units. An example was made of the nursing profession. Initially head nurses or charge nurses were not included in the bargaining unit since they were considered supervisors. Head nurses do not hire or fire but they may make a report on individuals yet they do not make the major staff decisions which determine jobs that management does. The same situation could apply in Hamilton where branch heads and department heads were excluded from the bargaining unit but if it were looked at again perhaps only a large branch head would be excluded from the unit.

In many companies or work units there is a great deal of interdependence among staff. It is difficult to differentiate the management from the other staff. In many job situations many employees participate in the management function. It is impossible to manage without regular input of procedure, rules, regulations, recommendations on personnel, discussion from everyone down to the lowest professional category. One example is the organization of radiologists in the province of Quebec. The first medical doctor union was formed. The radiologists run the department. They set the rules. They change the rules when new equipment comes in. They understand the equipment whereas management doesn't. Similarly in libraries, the people who define themselves as being in the upper management levels of the library may well have the ultimate responsibility, but one can't exercise that responsibility without the support and assistance of all the professional librarians. When one draws a clear line between who is responsible for hiring, firing, transferring and promotion and decides these persons who are so responsible are management and those who are not responsible for the acts are staff and so can be organized into unions, one is following an archaic principle. Today it is very difficult to separate the managerial librarian from the non-managerial librarian. Perhaps there is a requirement for a new statute or an interdisciplinary association.

There was some discussion of collegial types of organizations similar to university departments where department heads were elected by the department personnel. There was some discussion of the possibility of librarians in several different kinds of libraries organizing to bargain and mention was made of teachers who bargain under voluntary recognition. The main problem is that we have to know who the employer is.

There was a question from the floor on the Construction Industry which apparently organizes by regions and also has employers organized by regions. Men move from job to job rather than from employer to employer. This is called a multi-plant unit and typically a multi-plant unit belongs to one owner.

Some examples of organization were used from the nursing profession. Nurses were keen on the professional negotiation approach. However they gave up in frustration and turned to the Ontario Labour Relations Act and began to organize locals. They recognized that the Registered Nurses Association of Ontario could not be used as a union. So now for each hospital there is a hospital union or association. The R.N.A.O. has provided a special section especially financed with an annual grant that gives them regular service through bulletins, assistance in arbitration, assistance in negotiation if they want it; conduct courses on grievance handling. This particular section of the R.N.A.O. is called the Management Section. In the teaching profession there is a closed shop. You have to be a teacher to be hired and to be a teacher one of the things you must do is to belong to the Teacher's Federation. Teachers therefore don't have a problem with organization for it exists by law. The Teacher's Federation has gone to the school boards and over a period of years gained voluntary recognition from school boards and then on the basis of that voluntary

recognition they have negotiated. The fact is they are functioning in a very union-like way in that they are centralized through the federation. They compare and they all negotiate according to the same standard set of classifications of which there are seven. However they negotiate independently on a voluntary recognition basis.

The Labour Relations Board looks at the job a person is doing rather than his qualifications in determining the bargaining unit in which he fits.

Under the Nursing Act registered nurses are licenced to be nurses so that the Registered Nurses Association of Ontario participates with the government and with the local hospital in setting the examination to admit the people to the status of registered nurses. They are entered into the register and if their names are not in the register then they are not registered nurses. Among registered nurses a Committee of the Department of Health and a committee of the Association of the Registered Nurses of Ontario together establish the examination.

In the Hydro engineer's union they negotiate up to level seven apparently on a voluntary recognition basis but they were not certified as a union under the Act. However once they reached an impass in their contract negotiations they couldn't go any further. They appealed to the Labour Relations Board for the appointment of a conciliation officer to help them get by this and the Labour Relations Board said "You're not a union." Who do you represent? There is a lesson here for librarians. Librarians' organizations do not have licencing powers; they do not have a professional negotiations act. All librarians have is the ability to organize by libraries or by library boards under the terms of the Ontario Labour Relations Act.

Most agreements concern money and the bargaining process was described in this manner.

A fixed amount is decided by the library management for salaries. Naturally the employees want more than this amount. The union or library association makes a demand which is backed up by evidence and information and this is leaked to the press. Of course there is a vow of total secrecy and in turn the library board makes its response and it too is leaked to the press. Both sides make comments on radio and T.V. There is a smoke filled room, lots of coffee. You make threats; the other side makes threats and little by little you hammer the thing through until the 11th hour. Call for a recess - talk to cronies in the washroom - Shall we make it 35¢? Each side talks to his constituents. Each side makes a tough posture. Usually there comes a moment when an acceptable increase is given in reaching an agreement but not as much as might have been given. At this moment when concessions are given on both sides the two curves meet and an agreement is reached. In 9[illegible]% of all contracts an agreement is reached without any stoppage of work.

The speaker then dealt with contract negotiations and preparations for negotiation. Some suggestions made were the following (1) Chief librarian should not negotiate himself. He should appoint a negotiator so that the negotiator has an opportunity to tell the negotiating team at the bargaining table that he has to consult further with the chief librarian. This allows time for working out problems. (2) Should have available information on other offers from other library boards in the area, from other universities. Should have salary schedules drawn up according to the degree of responsibility in the job description. Should have answers for the argument that jobs have become more difficult, more complex, (3) Full information should be

available to both parties on fringe benefits e.g. employee and employer contributions to OHIC. Know what are taxable fringe benefits and what portions are not taxable. (4) Never if you are on management side say that it is not in the budget. Never say that the library is broke, that it hasn't the money. Argue on the basis that you are offering a just and equitable wage given the prevailing rates in the region on a comparative basis with other libraries and other occupations of a similar type. The moment one says it is not in the budget then the union quite rightly can ask to see the budget. This is especially true if there are increases included in the budget for possible salary increases, a surplus or a high contingency section. The union would feel that these amounts could be used for salary increases.

The speaker went through briefly the steps of negotiation.

The union and management have now met once. The union submits a brief and then management discusses when they will meet again - one week or two weeks hence. During that interval management will need the personnel officer, the negotiator, the chief librarian and possibly someone from the board and they will review the requests from the union group. They cost out the proposals for the library. Perhaps the costs will be a million dollars or 20% over twelve months and they have $300,000 budgeted. Then they decide on their approach. They perhaps meet with the union and explain that the costs are considerably more than they had expected. Then they ask the union to justify the 20%. Then the union gives a presentation of how reasonable their proposals are. Then questions are asked one group of another and then the negotiating team break off and agree to meet again in a week. Then the material is digested. They begin to sort out priority items. What were the uppermost issues in the presentation? Management will probably prepare a program which has an entry for each item which is the subject of negotiation and they will prepare a number of different offers up to the limit which their

budget permits trading one against the other across the board. They might make three packages of alternative steps towards the final cost. The offer might go this way or that. There might be several approaches made. Usually fringe benefits or other issues are dealt with first. One sees how far the other side is willing to back away from some of the demands it has made, and periodically one side or the other must leave the room to talk over among themselves the various issues. Offers on monetary issues are then made. Tactics here vary. One year you will not have much money. You offer 6% and you are ready to go to 6.8. In other words you indicate you mean business and wish to settle quickly. In another year when you have more money you might be willing to go to 9% at which you might start at 3% and work your way up. The situation will dictate the way in which you handle money. Once money is put on the table the complexion of the negotiations changes. Everyone pays strict attention. Each time that you make an offer and you get a response you debate for awhile. You retire to separate locations and you discuss the way in which the other side reacted. The union for its part is saying 6%. What is the message? Are they trying to tell us that is the final offer? That is all you are going to get. Or are they trying to scare us into settling quickly when in fact they would go to 9% or 10%? It's a matter of figuring out the signals of the other side. It's important to have some indication from city council or from the library authority what money will be available before you begin negotiations.

The speaker then dealt with some of the broad areas which are usually included in a contract. Contracts usually deal with several major issues. The first issue is the rights of the parties. Here is stated that the union has the right to recognize people in the bargaining unit as is found by the certification order of a particular day and that management has the right to manage except with those issues particularly dealt with in the contract. The way the management rights clause is worded determines the development of all

the other clauses in the contract.

The next set of clauses will deal with union security. Union security clauses cover such things as union shops, closed shops, maintenance of membership and check off. These are safeguards in the contract not to protect union members but to protect the union. The next set of clauses will deal with personal security. What type of seniority lists are there? Is it by branch, by system or by department? Do you work on a straight seniority basis that is number of years in rank indicates who gets promoted or do you work on a modified seniority system by the most competent of the senior, or further modification, the most senior of the most competent?

People working under a collective agreement are employees of the Library Board or the University during the life of the agreement; they have no other bond to the employer and the employer has no other bond to them. When that agreement expires the obligations of both parties expire. One can negotiate separately for individual tenure arrangements. Maternity leave, study leaves can also be negotiated.

The next clauses will probably be ones dealing with professional standards. These are the clauses that determine who does what. Who is a professional librarian? How does one deal with management that wishes to hire non-professional but competent people? Management has to commit itself to the maintenance of a professional level of competence.

Next come the clauses of scheduling and hours of work and salary and fringe benefits. These can be two separate items. The method of payment can be negotiated by the union or can be a management responsibility. There are levels of professional competence. One can pay according to a graduate scale, to a grid or one can pay a flat base rate with increments within a range to be determined by management. The method depends to a great extent on the cooperation between management and the bargaining unit.

On the subject of what is negotiable - everything is negotiable. When a union is first certified and you sit down at the bargaining table everything is up for grabs. Everything is negotiable. When you first negotiate you decide those issues which you wish to retain as they are; those issues you are not concerned about,and those issues you wish to change. The ones you wish to retain you write into the contract, the ones you are not concerned about you may wish to put them in the contract or you may leave them out. The ones you want to change you write into the first contract. Management often states that many of these are not negotiable. It is the union that tries to pick out the things that they like in current practice and have those things part of the contract.

Out of the management rights clause emanates the whole grievance procedure. In professional unions there are professional rights as opposed to work rules in an industrial union. The speaker defined work rules as the way a union attempts to control entry and exit from a job, controls jobs by limiting size of crews by limiting number of machines an individual may use or types of innovations.

When a collective agreement is reached one cannot conceive of every eventuality that may arise in the course of 52 weeks of working. It has to be a flexible document - and of course open to interpretation. There must be within that agreement some mechanism that allows both parties to meet, consult and make an interpretation. The process by which they do this is known as the grievance process. In the library profession there is very little experience with grievance procedure. The speaker only knew of seven grievances, all of them concerned with hours of work or temporary workers. The grievance procedure usually has four steps in it. East York contract is unusual in that it has five steps.

Most contracts stipulate that when an employee has a problem he should go to his supervisor and discuss it and try to work it out. First there should

be some informal resolution of the dispute. If it can't be worked out then it is turned into a formal grievance. A worker has a particular period of time in which he must lodge the grievance 6, 7, or 4 days whatever it may be. The individual usually goes to his union steward and if it sounds like something reasonable then the steward goes with it to the next superior such as a department head and presents it as a written grievance. Canada has one of the best instruments for grievance procedures. People from all over the world come to study our system. If the two parties fail to resolve their difficulties then the grievance is submitted to final and binding adjudication by someone who is a neutral third party. In the U.S. the final step is going on strike; in the U.K. it is conciliation. This procedure was introduced in 1906 but was not widely accepted until the 1940's.

To make this system work the union must know what a grievance is, how to prepare it, how to deliver it, how to defend it. The grievance must be clearly written. Grievances have to state what happened, where it happened exactly, when it happened and it must also state what redress the union is seeking. Usually a grievance is taken back by the union members or union steward into a grievance committee of the association and they discuss whether they want to proceed with it because this sets a course which must aim at arbitration which is expensive. Sometimes step 3 is to go to a committee of the board with the grievance. Then step 4 is final and binding arbitration. It is final until such time as it could be overturned by an appeal. An appeal may be made on the grounds that the arbitrator went beyond his powers in considering matters that weren't arbitrable, or on the grounds that the arbitrator has contravened the Labour Relations Act. This applies particularly in discipline and discharge cases.

The group discussed again the management rights clause. There are two schools of thought on management rights. First there is the residual rights

approach. This is defined as management having all the rights at the beginning of the negotiation but will allow the union certain specific rights but that any remaining rights or residual rights belong with management. Another school of thought is gaining ground. This is the school of co-equal rights. It has been espoused by two Secretaries of Labour in the United States. The thrust of this philosophy is that management and labour are interdependent and that interdependence should foster co-equal rights. Once the contract opens up in the management rights clause the responsibilities of management, then all aspects of management are negotiable in the contract. A tough management rights clause will say "The right to manage the enterprise resides with management except those items dealt with in the terms of the contract." If there is a tough management rights clause then the union will try to cover every loophole. It will try to get maximum mileage out of the contract. If there is a loose management rights clause the union will permit a more general statement of the grievance procedures. If there is a residual rights clause the management is pushed into a light little mold. It doesn't give any flexibility. The East York contract defines a grievance as "a dispute regarding the interpretation, meaning, operation or application of this agreement." A definition of a grievance from the Labour Relations Act is "any dispute arising out of the interpretation or applicaton of a collective agreement." This is a tight, conservative definition of a grievance. It goes with a residual rights approach to management. If grievances are to be confined to the contract as written, all members of the staff must have copies of the contract. All issues must be sorted out in terms of the contract. One decides whether it is a grievance or not and then if it is, is it possible to win? The important thing to look at is how do you phrase a grievance, what redress do you seek and how do you relate it in specific terms to the contract. You must establish what kind of grievance there is in violation of the operation or interpretation or attribute of the

contract. If you can't understand it then you haven't got a grievance. The arbitration process is a judicial one. Both sides present their case. They buttress it with facts and prepared arguments. Witnesses may be subpoenaed. After the case is heard about 8 or 10 weeks later the arbitrator indicates his final judgment in a written report. Arbitration costs between $300.00 to $1,000.00 per arbitrator per day. The arbitrator can receive evidence which is not normally admissable in a court of law. While he cannot found his decision upon this information, he must use it rather as a background. It certainly influences the way he would make his decision. When an Appeals Court reviews the arbitrator's decision it will remove this nonadmissable material and consider only the facts of the case; that is only that which is admissable in a court of law. Therefore the Appeals Court may reverse an arbitrator's decision on that basis. The arbitrator is often torn between the letter of the contract and the spirit of the contract. The issues concerned with job descriptions, what is involved in a job, how long does it take to do a job, are often settled by lawyers or judges as arbitrators. They often do not have enough knowledge of the situation. Arbitration boards which contain a representative from management, a representative from labour and a third person are often better equipped to understand situations.

Management must communicate with employees about rules and procedures. If a person has been disciplined, management must allow him to have the assistance of a union representative in order that he may tell his side of the story. Management must have a standard and understood procedure to follow in discipline whether it be written warnings or discussions, and also the case must be made for summary dismissal under certain conditions. All of this has to be clear although it is not part of the contract but rather part of management's responsibility according to the management's rights clause. Consistency is important in this area otherwise grievances will be filed.

The speaker felt that written warnings delivered by registered mail were too deleterious to the morale of most employees. He felt verbal discussions with an entry in the personnel record were more effective.

The speaker again emphasized the grievance procedure and quickly rehashed the processes. When someone comes to you with a complaint you must identify the complaint in the terms of what is bothering the individual. Have the individual say it all in his own words and don't interrupt him. Obtain all the information and then you must reorganize it into who, what, where, and why. Then you must determine what aspect of the contract or law has been abridged. Having done that you make sure that the informal process has been fully explored. Has the employee gone to his immediate supervisor and tried to resolve this? Can you help him informally work this thing out? You don't really want to commit your time and the time of a lot of other people to handling a fairly trival issue which could be resolved by a phone call or a brief discussion. Then you must put it in writing and make contact with the person designated in the contract to receive it and discuss it. There you have to explain, persuade, justify and be reasonable and you must be prepared for responses which are reasonable persuasive and justifiable. Once the grievance leaves the grievance committee it becomes a more formal procedure. You are now committed to a formal course of action. The judge or lawyer who hears the case doesn't know the library field, doesn't know anything about the way you work. You have to explain to him precisely why this is or is not in conflict with established practice of the contract, with the law, or with management prerogatives in your situation. Witnesses must be called who must be coached.

There was discussion then of arbitration, mediation and conciliation. Conciliation is used as a method of bringing the two sides together. He works with one side and then the other in order to obtain some common issue upon which the two parties can start talking again. The mediator does

more than the conciliator. Both parties have agreed to his services and he has more power than the conciliator. He makes suggestions for a settlement. If he fails, then, he reports the facts of the case as he perceives them and he may report what may appear to be a reasonable outcome or settlement. That can become a public document so you can have an instrument here to bring public pressure against one side or the other to bring about a settlement. In the U.S. the rough equal of that is fact finding. An individual fact finder or a board fact finder goes in and they interview both sides and they meet them together and they try to bring about a settlement and if they fail then they report the facts and they may make recommendations that can be used as a public document so that everybody knows what the problem is. Then a third kind of settlement can be imposed and that's arbitration. It's a judicial process where you turn over to a third person the decision making power and you say "Here is our case" and the other side says, "Here is our case" and then the arbitrator gives you a decision. Lately there has been a push for a modification of arbitration which says that the arbitrator hears both sides but in his award he can either award all for one side or all to the other but he can't split the difference. Now the object of this is that theoretically the parties would be more honest at the bargaining table. They will come closer and closer to their end position in fear that the force - choiced arbitration, if they have held out too long the other side will look more reasonable, won't get what they want. It has been used in one area and that is the Tennessee Valley Authority of Engineers.

The Federal Government is experimenting with a new system called continuous mediation. They have several people from the government and a research person and they compile information on the union, the company and the industry. They meet with one side and then the other and constantly make suggestions.

The Federal Department of Labour has 70 conciliation officers and 1,500 contracts to administer.

In the Province of Ontario there are 70 conciliation officers and 5,000 contracts to administer.

Grace Buller

MANAGEMENT RESPONSIBILITIES

by

Mr. John Hurst

Management may be considered to be government of the day in perpetuity. The union is in the role of the loyal opposition protesting allegedly unjust management decisions through the grievance procedure. Management are appointed; unions are, for the most part, elected. Union Representatives, of course, usually come from headquarters. Contrary to popular belief, management decisions and actions are often arrived at more democratically than union decisions and actions. There is a tendency for union decisions and actions to be autocratic. While I was working for British American Oil dealing with the Teamsters in Windsor, it came time to renegotiate the contract. When I started talking to the President of the local, who was our own employee, and asked what changes they wanted in the new contract, the President had to ask the Teamster business agent what they were bargaining for. The local employees had no part in the process of putting forward their demands. The hot-point where the interests of management and the union collide leads to the necessity for developing some framework within which the union-management relationship can continue to achieve the objectives of both the employees and the institution for which they are working, and collective agreements appear to have provided a mechanism for dealing with the problems involved in operating an enterprise with employees.

These problems exist whether there is a union and collective bargaining in the plant or not. You are always going to have employees and there will be problems of wages, work assignments, promotions,

lay-offs, discipline, morale, etc. A union contract is an extremely good vehicle for dealing with these problems on an orderly, intelligent basis. Without collective bargaining, the employer meets these problems as he can or wishes. He may have formulated a policy - in his mind or on paper - which he applies rigidly or flexibly, or he may meet each problem as it arises without the guidance of past policies or a future plan. The entry of the union and collective bargaining does not create the problems, although it may add some new ones when the element of a new institution with its own needs and drives is introduced. The union and collective bargaining create different methods of meeting and adjusting problems. The representation of employees and the nature and process of adjustment of grievances in an automobile assembly plant or on a building construction site present different problems requiring different methods from those in a university or a municipal library, but the basic aims are largely the same. And the primary approach - the effort to consider and understand the needs, desires and fears of each other and to inquire, negotiate and adjust - is largely the same. One of the important features in every situation is the sincere desire of each party to be assured about the future conduct of the other party, that is, the desire for stability and security; a comprehensive collective agreement then becomes a very important ingredient in their relationship. The collective agreement reduces the possibility of solving problems on the basis of spot judgements without formulated policies;and it requires each party to think into the future, to anticipate situations, and to determine solutions before the problems arise.

Typically, collective bargaining involves first, the negotiation of a general agreement as to terms and conditions of employment; and

second, the maintenance of relations between the parties for the period of the agreement. The first process is usually the dramatic one which catches the public eye and which is sometimes mistaken for the entire function of collective bargaining. What you don't see in the press are reports of the vast number of agreements that are negotiated successfully and quietly. The negotiation of the contract is approximately what the wedding is to domestic relations. It launches the parties on their joint enterprise with good wishes and good intentions, but the life of the enterprise then depends on continuous, daily cooperation and adjustment. The labour agreement is not made between parties who seek each other out for the purpose of entering into a business transaction and who can shop around among competitors for the most favourable connection. Rather, it is made between parties who find themselves already in a joint enterprise and who have little or no choice in selecting each other for the relationship. The union hardly chooses the employer and the employer does not choose the union. Both are dependent, however, on the same enterprise and, as a practical matter, neither can pull out without the possibility of destroying the enterprise. Even when a dispute between them results in suspension of operations, a strike or lock-out, they must strive to adjust the dispute and resume their relationship. Of necessity and quite independently of the agreement, the parties must live and work together daily and continuously. Their differences and frictions require not merely the redressing of past wrongs but, more importantly, increasing cooperation today and tomorrow. While conformance with the collective agreement is intended as a means to that end, it is not the only means and is not a guaranteed cure-all.

Management must decide what its posture towards the union and the collective agreement is going to be. I would like to suggest some five postures that I have been able to identify. It is up to management to decide which posture or combination of postures they are going to adopt in the conduct of the relationship.

1. Conflict. This may be defined as a hot war, a situation of conflict; management does not want this union and will do everything it can to keep the union out. An example was the auto industry in the 1930's. The union, on the other hand, does all it can to become recognized as the bargaining unit. This kind of relationship can exist even after the union has been certified and a contract has been negotiated. Basically it is antagonism; each party is doing all it can, legally or illegally, to thwart the aims and objectives of the other party. It is the employees, of course, who lose most in this kind of situation, although the company and the union may lose vast sums of money. This attitude may prevail not only in the negotiations but in the continuing relationship between the parties. Grievances are handled in a legalistic rather than a clinical way.

2. Coexistence. Coexistence can be likened to a cold war. In such cases the union has been certified, but it is continually striving to increase its power and control in the company. Management aggressively resists any effort on the part of the union and strives to restrict any of the gains made. They get along, but only just. This may be what Mr. H. J. Clawson, vice-president, personnel, Steel Company of Canada Ltd., meant when, a few years ago, he summarized his concept of collective bargaining in an address to the Personnel Association of Toronto:

[see quotation attached or following page]

I think we are now beginning to see collective bargaining, as an aspect of personnel administration in a better perspective.

The fact that those who are concerned with collective bargaining appear to be more "hard boiled" and maybe a little more cynical, more legalistic, and less flexible, than those who have responsibility for other aspects of personnel administration does not indicate any fundamental difference of philosophy. The very nature of collective bargaining, involving, as it does, relations with employees as a group, rather than as individuals, precludes an approach governed by the ordinary canons of "human relations" behaviour. When you consider that the group is not merely the sum of the individuals composing it, but, in fact, is a new and distinctive entity altogether — the union as an institution, with all the normal institutional attributes — these difficulties become even clearer. This is further complicated by the fact that unions have become political institutions and pressure groups rather than just idealistic social movements.

In addition, and this is obvious but basic, under conditions of collective bargaining, the greater part of personnel administration becomes subject to contractual imperatives, with accompanying rigidities and sanctions. Not only the negotiation of the contractual rules, but the administration of them, must be governed by this reality. One need only mention the fact that action under a collective agreement is subject to final adjudication by an arbitrator, to see how different the approach must be.

Many serious mistakes have been made in collective bargaining by well-meaning personnel men who failed to perceive the difference between unilateral, individual personnel administration, and contractual, group personnel administration. Many more mistakes will be made unless this principle and the related procedures are thoroughly understood.[1]

[1] H. J. Clawson, *The Personnel Function — A Practitioner's Appraisal;* an address to the Personnel Association of Toronto, Inc., January 10, 1961.

You see a contract which is a legal and binding document and, therefore, you have to think in terms of the total rather than the individual. Rightly or wrongly, I perceive that this is what is bothering you people. As professionals you want the amenities that belong to professionalism; you also see the advantages of the contractual commitment in the collective agreement and, I suspect, you want [illegible] both worlds. You may, at this point, be unwilling to give up the professional aspects to gain the collective agreement aspects. This is one of the minus features of collective agreements. Management loses the flexibility to deal with individuals as individuals.

3. Accommodation. Accommodation represents an understanding between both parties as to the role which the union has in the company. This understanding is manifested in the management-union agreement. Both parties may bargain aggressively during negotiations to obtain or preserve their rights, but as soon as the agreement is signed each party tries very hard to make it work. Grievances are now beginning to be handled in a clinical way. They begin to be not so concerned with the "i's" and the "t's", but are beginning to look at the causes of the grievances. The peaceful administration of a contract requires the confidence of workers that they will get justice through the collective bargaining machinery in the settlement of their grievances.

4. Cooperation. Cooperation implies some initiative beyond the scope of the agreement to help each other live together. Management and the union show an active concern for each other beyond the limits of the contractual agreement. In this kind of relationship we begin to recognize in practice the desire of individuals in a free society to participate in matters that are important to them. The vice-president

of a company will be hurt for weeks if the president does something for which the vice-president is responsible. The individual worker or groups of workers will complain and perhaps file grievances against decisions of management closely affecting them that have been formulated without consulting them. It is important that people participate as much as possible in these decisions which vitally concern them. Participation of workers, union representatives, and management at all levels is a prerequisite for the successful administration of a collective agreement. This participation through regularly-established channels involves all persons vitally concerned. Grievances should be settled speedily and as near their point of origin as possible. Each one should be handled on its own merits. An attitude of "You scratch my back, I'll scratch yours" can only lead to disaster. Complaints and grievances are usually the sign of deeper dissatisfaction; management and union should be alert to discover the causes.

5. Collusion. Collusion is often referred to as a "sweetheart" relationship. In this situation, top management and top union work together beyond the scope of cooperation in making arrangements that may be detrimental to the local membership and/or the general public. The Teamsters Union, for example, has faced this charge many times.

In examining these alternative types of relationships, management must be careful to analyse many considerations before making its decision. These are some of the postures management can look at and, as time goes on, possibly change from one to another. I can't suggest one as being the best. It will depend upon the nature and type of the union and upon the maturity of its leadership, as well as the nature and type of enterprise and the maturity of its leadership. Management in making this decision must weigh

the costs of slowdowns, strikes, grievances, arbitration, along with the morale and satisfaction of its employees. It is not possible to generalize that any one of these structures is the best one for all management-union relationships. The decision is complicated by the dynamic nature of the relationship and must be made only on the basis of a careful analysis of the individual situation.

It is helpful to bear in mind the nature of the continuing relationship which comes into being when a union is certified as the bargaining agent for the employees and succeeds in negotiating a contract. Each facet of the relationship between management and union has an effect upon the other. When a union seeks to organize the employees of an institution or company, the relationships that are developed in the pre-certification period have a significant effect upon the initial contract negotiations. If the battle for recognition has been bitter, the effects will be felt on negotiations and day-to-day administration over a long period of time. The relationships which are developed during negotiations are reflected in the final settlment. The day-to-day contract administration depends largely upon the understanding reached during the negotiations. If there is a dispute over the interpretation of a particular clause, it usually finds its way into the next negotiations. It is possible to win the battle and lose the war. Management may receive a favourable arbitration award only to find that they are restricted with a much more rigid contract clause following the next negotiations.

One other very important aspect of the union-management relationship is management's and the union's understanding of one another. The nature of the relationships between supervisors and union officials, and

the differences in their responsibilities complicate the situation. A supervisor, interested in good management, can easily lose sight of the fact that the authority of the local union officials comes from the membership. The other persons in the union-management equation, the shop stewards, have been elected by the employees to represent their interests. As soon as they elect him, they begin to watch the shop steward very closely and tend to misconstrue any relations he may have with the supervisor as a "sweetheart" situation in which he is really not looking after the concerns of the employees. His continuation as an official depends on how well he serves the union. The shop steward's personal opinions may be at variance with those of an employee or group of employees, but he feels a responsibility to back the employees. His identification with the employees and their views is perhaps even more important than his authority and responsibilities. The shop steward feels a kinship with the employees and their needs. He eats with other employees, chats with them during the day, probably lives in the same neighbourhood, and they all belong to the same union organization. In many instances the union serves almost as a fraternal order for employees and shop stewards, and they feel a common bond. The shop steward identifies himself with the employees and tends to support their claims.

The shop steward may often be a victim of frustration. He may come from one of many different backgrounds which tend to make him feel somewhat frustrated. He may be a worker who is genuinely convinced of his responsibilities to share in the work of the union; sometimes he is a vigorous, dominant, aggressive person whose desire for leadership has not been recognized by management; he is often a person who has been

disappointed in his own progress and who has turned to the union for an outlet; occasionally he is an ex-supervisor. He may have been alienated by past acts of supervisors or other representatives of management. Whatever his reason for assuming leadership in the union, if frustration has been at the root of it, he is likely to retain a deep-seated feeling of distrust toward management and, where the shop steward's satisfactions stem from the results he achieves for employees, he tends to be a rather vigorous representative of the union.

The shop steward has his fears also. When he feels that the supervisor cordially dislikes him, would do anything within bounds to get rid of him, and considers him at best a necessary evil, this is bound to affect his feelings about the supervisor. Although much of the supervisor's antagonism may be concealed beneath a friendly greeting or a kindly manner, the shop steward still senses, to a considerable extent, the feelings the supervisor has toward him. On the other hand, when the shop steward comes to understand management's aims and problems, he has to fear the employees. They, being separated from contact with management, are all too prone to think that the unsuccessful shop steward has made a sell-out or has simply failed to represent them and their interests. I suggest to you that for successful relations management must really try to understand the role of the shop steward. If he is a good, effective, fair and tough one, he can make things a lot easier for everyone concerned.

My final point is that really, to me, the key to human relations in a collective agreement is recognition of the worth of the individual so that he is given some feeling of purpose in what he is doing.

Marie Scheffel

THE UNION'S APPROACH TO COLLECTIVE BARGAINING

by

Mr. Elmo Gilchrist

It is almost four years since I was engaged in union organization. The past four years have been most interesting and enjoyable, and I have been surrounded by a group of very fine people. While my friends in the labour movement jokingly call me a traitor, I cannot feel that I am a traitor. I think it is quite natural to move into personnel work; you just cannot beat working with people.

When Mr. Bilyea asked me to participate in this seminar and indicated the subject I was to discuss, it brought back a flood of memories which I will cherish as long as I live. I played a small part in the formation of the Canadian Union of Public Employees as we know it to-day.

Now, let me discuss some of the events which may lead to the formation of a local union, and tell you some of the joys, sorrows and frustrations which may be in store for the union representative. Let me start by saying that it is generally accepted that you cannot organize happy employees. This of course brings forth the question, "But why are they unhappy?" It is obvious that the proper answer in our present society cannot be that simple. The reasons for union organization can be many: job security, low pay, poor supervisory practices, lack of communication, the need for job enrichment, the need to feel wanted and appreciated, the desire to stand up to the boss and express an opinion or point of view. When one of the fathers of the labour movement, Samuel

Gompers, was asked, "What do the unions want?" he replied, "More", and he did not need to explain further.

I would like now to discuss three organizing campaigns in which I was involved that were very different in nature, and the outcome in one case was a very sad experience for all concerned. The first was the Belleville City Hall employees. The employees belonged to a staff association which was concerned mainly with social functions and had no recognized bargaining status. You may recall the MacFarlane hockey team scandal which rocked the city of Belleville. This was followed by a shake-up in the municipal structure, and the City Council implemented the City Manager type of structure. This upheaval caused great concern to the employees, and they felt very insecure in their employment. The staff association, however,had for some time been in contact with other city hall employees, particularly those in Peterborough who had recently become organized. The staff in Belleville had a copy of the Peterborough agreement and, on comparing the salaries and other conditions, they found that they fell far short of the provisions in the Peterborough agreement. I was given the name of one person in Belleville to contact and, following this initial contact, I met once with a small group, then twice with the total staff who were now quite interested in organizing. Following the second meeting, we applied for certification; were certified in due course, and the show was on the road. This was a very easy campaign, and a footnote can be added that the consultants for the city were in complete agreement that the staff should have a union.

Now let us look at the campaign at St. Joseph's Hospital in Peterborough. In my nine years as a union representative, I never met

a more insecure, fearful and low-paid group of people. The campaign in all lasted for more than a year, due mainly to the fear that the employees had of the administration. It was not unusual for an employee to be reporting to three or four supervisors in one day, each supervisor giving instructions which were in conflict with the others, and often the instruction carried with it an implied threat of loss of employment. I could not call meetings; no one would attend; the employees were afraid to be seen in my company. We started talking to the employees individually in January and collecting lists of names and addresses; we mailed out questionnaires. By July we knew that there was sufficient interest if we could just get the employees to sign cards and pay one dollar. The first card was signed on July 12, and we conducted a house-to-house campaign until December 24. I called at one house seven times before a card was signed. I applied for certification on December 24, and when I appeared at the Labour Relations Board hearing, I was one card short of the required percentage. The Board ordered a vote and the union won it 121 for, 27 against. Let me add a couple of points. A male employee at St. Joseph's prior to organization was receiving 80¢ an hour, a similar position at the Peterborough Civic Hospital paid $1.47 an hour. Prior to organization many raffles were sponsored by the Hospital or the Sisters; the employees were given say ten books of tickets to sell and were told to sell them all if they wanted to continue in employment. To protect their jobs and remain in the good graces of the Hospital, the employees had to buy all the tickets that they could not sell.

Finally, I will describe the Perth Hydro campaign, which is one I would like to forget. This campaign was a most unhappy experience for all concerned. It involved a small group of fifteen employees who

were concerned about low pay and, to a lesser degree, job security, and who were in constant contact with Ontario Hydro employees who were receiving from about 80¢ an hour to as high as $1.75 an hour more than the Perth employees. In two meetings all fifteen employees signed cards and I applied for certification. However, the Perth Hydro Commission responded by invoking section 78 of the Labour Relations Act. This section allowed the employer to say that the Act did not apply to it and its employees; therefore the Labour Relations Board was in effect removed from the case. Section 78 was very brief. It simply said the employer could pass a by-law saying the Act did not apply to it or its employees. Under these circumstances the employees and the employer were left to their own resources and, if the employer would not voluntarily recognize the union, the employees had to remain without a union or strike for recognition. The employees at Perth decided to strike for recognition, and the strike which lasted from July, 1964 to December, 1964 was lost by the employees. None of the employees returned to work for the Hydro; all of them found better employment within a month after the strike ended. Section 78 was repealed, and under our present labour legislation this kind of a strike cannot take place. This section applied to municipal governments and boards. These employees faced this additional obstacle of permissive legislation.

From these three examples you can appreciate that the union representative must become fully aware of why employees want to be organized, and he must plan the campaign having regard for all the circumstances bearing on the case at hand. He must answer a never-ending flow of questions; must be a good salesman selling the union to a sometimes reluctant or even hostile group of employees. He must be very careful in

making promies that he may not be able to fulfill. My main promise in these situations was that I would devote my time and energy to getting the new group the best possible wages and conditions that could be negotiated at that time. I never promised a new group that I would get them specific benefits, rather that I would get them the best conditions that could be negotiated.

Now let us move to the bargaining table where the union representative is usually the only one on his side of the table with any experience in negotiations. His committee can include quite a cross-section of people. Usually they are timid, uncomfortable, and seriously concerned that they may be sticking their necks out and that serious consequences may follow. Once in a while you have a loud-mouthed, uncontrollable individual, who feels he has arrived, and intends to show those stupid so-and-sos across the table where they head in. He usually does more harm than good and is replaced at the first opportunity. Across the table you find a group of people who may have little or no experience; they may, or may not, have a consultant. In many cases they appear wounded; to think that their employees would do this to them after all they have done for the employees! Often the wounded feeling gives way to outright hostility, and a great deal of time is spent trying to smooth ruffled feathers before they can get down to the issues at hand.

In a first contract, the union tries to reach agreement on the so-called bread and butter items and to have a good measure of union security. With this, the stage is set to build a good relationship and to have machinery available for handling problems as they arise. The employer usually tightens up in most areas. He may cut off some of the privileges

enjoyed to date; generally wants to give as little as possible, and tries to end up with a so-called airtight agreement. I do not think that any such agreement has ever been written. The inherent conflict between the parties is now out in the open, but each party knows what is required of it, and what it can expect from the other. It has been my experience that, in most cases, by the time the second set of negotiations rolls around the muscle-flexing is over. There is a job to be done, so let's get on with it. Many employers looked upon the conclusion of negotiations as a time for celebration, and an opportunity for them to show what really fine fellows they were. A table fit for a king was prepared and it was good fellowship and enjoyment for a job well done.

Marie Scheffel

APPENDIX I

LABOUR RELATIONS AND THE LIBRARIAN

MAY 14 - 17, 1972

PROGRAM

Sunday, May 14

5:00 - 8:30 p.m.	Registration
8:30 - 10:00	Reception

Monday, May 15

7:30 - 8:30 a.m.	Breakfast
9:00 - 10:30	The Ontario Labour Relations Act - Mr. David Kates
10:30 - 10:45	Coffee
10:45 - 12:00	Discussion on the Act
12:00 - 1:30 p.m.	Lunch
1:30 - 3:15	The Act and Professional Organizations - Mr. Val Scott
3:15 - 3:30	Coffee
3:30 - 5:15	Collective Bargaining in the Public Sector - Mr. Aubrey Golden
5:30 - 7:00	Dinner
7:30 - 9:30	Film: Strike in Town

Tuesday, May 16

7:30 - 8:30 a.m.	Breakfast
10:30 - 10:45	Coffee
12:00 - 1:30 p.m.	Lunch
3:15 - 3:30	Coffee
5:30 - 7:00	Dinner

The program for the day will be in the hands of Dr. Fraser Isbester

7:30 - 9:30 Workshop - Leaders: Mr. Ron Stevens
Mr. Graham Silcox
Prof. Thomas Cawsey
Faculty School of Business and Economics

Wednesday, May 17

7:30 - 8:30 a.m.	Breakfast
9:00 - 10:30	The Union's Approach to Collective Bargaining - Mr. Elmo Gilchrist
10:30 - 10:45	Coffee
10:45 - 12:00	Management Responsibilities - Mr. John Hurst
12:00 - 1:30 p.m.	Lunch
1:30 - 3:30	Discussion and Evaluation
3:30 - 4:00	Coffee and Adjournment

APPENDIX II

REGISTRATIONS FOR THE SEMINAR ON LABOUR RELATIONS AND THE LIBRARIAN

NAME	LIBRARY
Anne Gertruda Amolevicius	Library, University of Toronto
Mr. Stan Beacock	Midwestern Regional Library System
Mrs. Margaret Boehnert	London Public Library and Art Museum
Mrs. Sheila Bradley	Library, Carleton University
Mrs. Grace Buller	Provincial Library Service, Department of Education
Miss Marion D. Cameron	Library, University of Guelph
Miss Joanna B. Curtis	Hamilton Public Library
Mr. Brian Dale	Kitchener Public Library
Mrs. Irene J. Dawson	Library, Lakehead University
Mr. Bohus Derer	East York Public Library
Mr. Less Fowlie	St. Catharines Public Library
Mr. Charles E. Gosselin	Library, McMaster University
Mrs. Lucy Greene	Library, University of Western Ontario
Mrs. Winnifred E. Hanafi	Law Library, Queen's University
Mrs. Helen Howard	Library, Sir George Williams University
Mr. J. Robert Labelle	Library, University of Ottawa
Mr. Robert Lee (Absent)	Library, University of Western Ontario
Mrs. Treszha MacDowell	Ottawa Public Library
Mr. Michael J. McCahill	Library, University of Toronto
Mr. John Noland	Fort Erie Public Library
Mr. Duncan Dawson Rand	London Public Library and Art Museum
Mr. Bill Rolph	Library, McMaster University
Mrs. Judith S. Ruan	Bramalea Public Library
Mrs. M. Scheffel	Library, York University
Rev. Erich R. W. Schultz	Library, Waterloo Lutheran University
Mr. Robert B. Totten	Library, University of Western Ontario
Mr. Paul Wiens	Library, University of Waterloo
Miss Margaret Whiteman	Etobicoke Public Library
Mr. Robert J. Wrightson	Library, Queen's University

ELMO A. GILCHRIST

Mr. Elmo A. Gilchrist

Mr. Elmo Gilchrist was born and educated in Renfrew, Ontario. His early work experience included farming, a weaver for five years, and two years in the army. In addition Mr. Gilchrist spent nine years with Coca Cola as a truck driver and salesman.

Approximately fourteen years ago he joined the Canadian Union of Public Employees and worked his way up through the organization to become a National Representative with CUPE. His union duties included assisting in establishing new union locals, as well as negotiating numerous union agreements.

For the past three and a half years Mr. Gilchrist has been Assistant Personnel Officer at Carleton University. His duties include labour relations work, recruiting of technical, buildings and grounds, and security staff, as well as salary administration, job classification and related programs.

Mr. Gilchrist will bring an insight on some of the techniques and inner works of how a union organization goes about forming a new local, and some of the problems the union faces when it is at the bargaining table.

AUBREY E. GOLDEN

Mr. Aubrey E. Golden

Mr. Golden received his B.A. at the University of Toronto and attended Osgoode Hall Law School where he was called to the Bar in 1959. While attending University and Osgoode Hall, he was a staff reporter with The Toronto Daily Star. He was also Chairman of the Debating Society and served as Treasurer on the executive of student government.

After graduation Mr. Golden entered his own practice specializing in labour relations. He has been an active advisor to both the Provincial and Federal governments in the areas of industrial relations, automation, and industrial safety.

He is counsel to a number of representative organizations in Canada, including the Federation of Engineers. Mr. Golden's interests include cases concerning civil liberties and he is a past chairman of the National Civil Liberties Section of the Canadian Bar Association.

Mr. Golden is the author of a paper on "Collective Bargaining in the Automated Society". In addition, he is a contributor to "Viewpoint", a C.B.C. public affairs commentary. Following the political events in Quebec in the Fall of 1970 and the subsequent action of the federal government he co-authored a book on the subject, "Rumours of War", which was published by New Press in the Spring of 1971.

He is a member of the Lawyer's Club of Toronto, the Advocates Society, The Canadian Bar Association, the John Howard Society, the American Academy of Political and Social Sciences, the International Commission of Jurists and the Central Ontario Aviation Council.

JOHN E. HURST

Mr. John E. Hurst

Mr. John Hurst is Director of Personnel at the University of Guelph. The University of Guelph currently has a student enrollment of 7,500 with faculty and staff numbering 2,297.

Prior to joining the University of Guelph in 1965, Mr. Hurst was a Senior Consultant with Woods, Gordon for two years, responsible for heading professional executive placement activities.

From 1951 to 1963 he was employed with British American Oil working in Supply and Transportation, Marketing and Head Office Employee Relations. In this latter period of time he was Personnel Manager for the Ontario Marketing Division.

Mr. Hurst received his B.A. from the University of Toronto and has taken a course in Industrial Labour Relations at Cornell University.

Currently there are 1,143 employed at the University of Guelph who are represented by the Civil Service Association of Ontario (Inc). Guelph was the first University in the province to have a strike in April, 1968.

From Mr. Hurst's depth of experience and working with unionized employees he will be in a position to outline the ongoing problems. In many ways a unionized group is really no different from non-unionized personnel as they are still your employees and Mr. Hurst will discuss the differences.

A. FRASER ISBESTER

Dr. A. Fraser Isbester

Dr. Fraser Isbester is the Chairman of the Department of Industrial Relations at McMaster University and holds the rank of Associate Professor in that department. He joined the Faculty of Business in 1966 and prior to that was Assistant Professor at the Universite de Sherbrooke for five years.

His educational background includes, graduate of Royal Military College of Canada; Honours B.A., Queen's University; M.B.A., University of Western Ontario; M.A., Bishop's University; and Ph.D., Cornell University.

Dr. Isbester's publications include three books, fourteen published articles with a number in leading journals, a number of unpublished reports, plus work in progress. Several articles have been in the public sector area.

He has done extension teaching both in Canada and United States as well as participation in Management Development Programs. Dr. Isbester is Chairman of the Public School Board for the City of Hamilton and has negotiated with all bargaining units of the Board (five units) for the past two years.

In our seminar Dr. Isbester will cover 1. Why Professionals Organize, 2. Basic Rules in Negotiation, 3. The Contents of the Contract, and 4. Contract Administration.

DAVID H. KATES

Mr. David H. Kates

Mr. David Kates was appointed to the position of Legal Officer with the Ontario Labour Relations Board in April, 1970. This position involves working with Mr. G. W. Reed, Q.C. who is chairman of the O.L.R.B.

Mr. Kates home is Toronto and most of his academic background was earned in that city. Graduating from Forest Hill Collegiate, he attended the University of Toronto where he received a Bachelor of Arts in 1965, majoring in Modern History. In 1968 he earned a Bachelor of Laws degree from Queen's University in Kingston. His admission to the Bar Law Society of Upper Canada Osgoode Hall was received in 1970.

His work experience includes working as a student lawyer with Swift of Canada Ltd. Mr. Kates articled with Robins and Robins.

In his presentation, Mr. Kates will discuss the history and philosophy of the Ontario Labour Relations Act. In particular he will outline the recent amendments to the act and their implications to the Librarian.

R. VAL SCOTT

Mr. R. Val Scott

In 1940 Mr. Scott came to Victoria, British Columbia from his native home in Shanghai, China. After attending private schools in Vancouver and Victoria he served in the Canadian Merchant Marine from 1946 to 1950.

Mr. Scott joined the R.C.A.F. in 1950 and served in the Administrative and Education branches until 1957. During this period of time he also took courses at both Queen's University and the University of Toronto leading to a B.A. in Sociology and Political Science. Mr. Scott was also noted for his athletic accomplishments.

After serving two years as Director of Education for the First Unitarian Congregation of Toronto, he accepted the appointment of Business Manager for the Society of Ontario Hydro Professional Engineers and Associates (SOHPEA). His present position is General Manager of SOHPEA. Mr. Scott's work has involved serving on a number of committees connected with the association, as well as preparing four reports which have been published.

Mr. Scott has been actively involved in community organizations which include the Religion and Labour Council, North York United Appeal, elected Trustee for Ward 1 since 1967 and membership in a number of other associations.

The political arena has been home to him since 1959 when he first served as Campaign Manager for the CCF - New Democratic Party. Since that year no election year has slipped by without his deep involvement either as a candidate or an active member of the party.

APPENDIX IV

LABOUR RELATIONS AND THE LIBRARIAN

Seminar Evaluation, May 17, 1972.

In as much as this seminar has been an experimental effort we ask you to share your reactions and feelings with us. Please rate each item as thoughtfully as possible; in so doing you will greatly assist us in the planning of future seminars. Do NOT sign the completed questionnaire.

Circle the number that best indicates your evaluation.

		Excellent	Good	Fair	Poor
A.	Speakers				
1.	Mr. David Kotes				
	a. The topic to which he was speaking was clearly defined.	4	3	2	1
	b. His presentation was clear and logical.	4	3	2	1
	c. He was well prepared.	4	3	2	1
	d. He helped me to achieve new insights.	4	3	2	1
	e. Overall evaluation of the speaker.	4	3	2	1
	f. Overall evaluation of the discussion following the speaker.	4	3	2	1
2.	Mr. Val Scott				
	a. The topic to which he was speaking was clearly defined.	4	3	2	1
	b. His presentation was clear and logical.	4	3	2	1
	c. He was well prepared.	4	3	2	1
	d. He helped me to achieve new insights.	4	3	2	1
	e. Overall evaluation of the speaker.	4	3	2	1
	f. Overall evaluation of the discussion following the speaker.	4	3	2	1
3.	Mr. Aubrey Golden				
	a. The topic to which he was speaking was clearly defined.	4	3	2	1
	b. His presentation was clear and logical.	4	3	2	1
	c. He was well prepared.	4	3	2	1
	d. He helped me to achieve new insights.	4	3	2	1
	e. Overall evaluation of the speaker.	4	3	2	1
	f. Overall evaluation of the discussion following the speaker.	4	3	2	1
4.	Dr. Fraser Isbester				
	a. The topic to which he was speaking was clearly defined.	4	3	2	1
	His presentation was clear and logical.	4	3	2	1
	He was well prepared.	4	3	2	1

d.	He helped me to achieve new insights.	4	3	2	1
e.	Overall evaluation of the speaker.	4	3	2	1
f.	Overall evaluation of the discussion following the speaker.	4	3	2	1

5. Mr. Elmo Gilchrist

a.	The topic to which he was speaking was clearly defined.	4	3	2	1
b.	His presentation was clear and logical.	4	3	2	1
c.	He was well prepared.	4	3	2	1
d.	He helped me to achieve new insights.	4	3	2	1
e.	Overall evaluation of the speaker.				
f.	Overall evaluation of the discussion following the speaker.	4	3	2	1

6. Mr. John Hurst

a.	The topic to which he was speaking was clearly defined.	4	3	2	1
b.	His presentation was clear and logical.	4	3	2	1
c.	He was well prepared.	4	3	2	1
d.	He helped me to achieve new insights.	4	3	2	1
e.	Overall evaluation of the speaker.	4	3	2	1
f.	Overall evaluation of the discussion following the speaker.	4	3	2	1

B. Evening Sessions

1.	The Monday evening film, and discussion was	4	3	2	1
2.	The Tuesday evening workshop was	4	3	2	1

C. Miscellaneous

1.	Food and coffee breaks	4	3	2	1
2.	Rooms and related facilities (overlooking the heat!)	4	3	2	1
3.	How do you rate a campus setting for such seminars?	4	3	2	1
4.	All things considered do you feel you got value for your money?	Yes _____		No _	

D. What aspect of the Seminar did you find most beneficial?

_____

_____

_____

_____

_____

E. What aspect of the seminar did you find <u>least</u> beneficial?

F. What parts of the seminar would you have appreciated more time spent and in greater depth?

G. What parts of the seminar could we cut back on?

H. In your estimation the seminar was:

a) too long _____

b) too short _____

c) just right _____

I. How do you feel about having future seminars hard-following OLA? CAN you suggest a better time?

J. What other topics should be considered for future seminars?

K. Other Comments.