TEACHERS AND COLLECTIVE BARGAINING IN ONTARIO: A MEANS TO WHAT END?

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The purpose of the McMaster University Faculty of Business Working Paper Series is to distribute early reports on research in process in order to invite comments before possible publication in final form.
Ontario school boards and teachers seem to have reached a parting of the ways. During the past decade the struggle for control of education at the local level has led to increasing rancour and to a breakdown of normal communications between the two parties such that by 1970 the province established a Committee of Inquiry into Negotiation Procedures Concerning Primary and Secondary Schools of Ontario. Charged with the responsibility for determining whether traditional collective bargaining mechanisms provide an appropriate basis for the regulation of teacher-board relationships, the Committee is expected to report and make recommendations before the end of 1971.

An assessment of this problem extends beyond consideration of legislative and procedural requirements. It encompasses matters such as the structure of the educational system, the loci of authority and responsibility, the position of the teacher within society and the intended objectives of collective bargaining. Such broad considerations do not seem to be within the scope of the Committee's investigation.

Is the Teacher a Professional?

The classical or badge professions do not include teachers. Professionalism in the pure sense of the word suggests that a professional has: 1) possession of a specialized body of knowledge; 2) involvement in work which is predominantly intellectual in nature; 3) received formal training at an institution of higher learning; 4) membership in a self-governing organization or association; 5) accepted a code of ethical practices related to the expectation of the public. In a broader sense, however, the term professional has come to be applied to a wide variety of
occupations ranging from the traditional areas of medicine and law to more recent specializations such as systems analysis and computer science. Teachers fall within this broader definition of the professional. In common with many professionals it is also noteworthy that the Ontario Federation of Teachers has corporate status founded in legislation and possesses some degree of disciplinary control over its members.

However, teachers lack certain common elements inherent in professionals. Subjection to organizational control and the requirement to adhere to policies and schedules established by a hierarchically-removed management has dissipated whatever autonomy they once enjoyed. Their status has become that of employees carrying out tasks within a framework established by legislation, government regulation and school board policy. Their pay is in accordance with a complex certification and salary schedule, rather than negotiated individually. Their hours and working conditions are set by external direction, not by personal preference. The content of the material dealt with, the techniques of imparting information, and the means of assessing the utility of the service to the client are largely beyond the teacher's sphere of authority.

Similar restrictions upon the exercise of independent professional judgment have been encountered by those engineers, doctors, lawyers and accountants who are employed within an industrial or governmental context. In several occupations dissatisfaction with salaries, professional recognition, work assignments and the lack of effective participation in policy matters have led to the creation or the strengthening of employee organizations. ¹

¹The 1971 amendment to the Ontario Labour Relations Act to extend collective bargaining rights to professional engineers resulted from the efforts of a group of employee engineers within the Association of Professional Engineers of Ontario. A further example is provided by the Canadian Federal Government's enactment in 1967 of the Public Service Staff Relations Act which granted bargaining rights to professionals as well as to non-professional employees.
In situations where large numbers of employees have similar qualifications and functions, where uniformly applied personnel policies and standards replace individual treatment, and where direct communication with management is difficult, collective action has gained gradual acceptance. The lingering effect of the stigma of trade unionism is reflected in the professionals' ambivalence to the adoption of the mechanisms and procedures of the collective bargaining process. To a large extent this attitude springs from considerations of status and from the concept of professional behaviour. This need for status protection has become more important as the technical competence of para-professionals such as teaching assistants, draftsmen and various classes of medical personnel broadens and encroaches upon functions, which were formerly within the domain of professionals. Use of the labour-management negotiating structure to establish working conditions and wages is, therefore, sometimes viewed as a further blurring of the line of demarcation. Added to this concern for status protection is the professional's reluctance to compare his confrontations with his employer to the conventional labour-management "test of strength". From this may follow a rejection of the strike as a dispute settlement mechanism in favour of the development of alternative methods of placing pressure on the employer. These measures may not, however, be openly acknowledged as being mere variations on the power tactics of union-management activity. The professional's advocacy of a rational, factual approach to bargaining also breeds an unwillingness to accept compulsory third-party decisions in the event of disputes.

An additional conflict felt by professionals lies in their responsibility for the provision of a reliable, high quality service in the interests of the public and in their concern for their personal economic welfare. Even in the absence of a legal requirement to maintain services, the professional
may feel a moral obligation to place public above personal considerations. This characteristic of social consciousness is, in fact, often cited in distinguishing the professional employee from the skilled worker. However, as evidenced by the actions of nurses, teachers, medical interns and engineers, the concept of social responsibility is losing ground to economic demands.

**Teachers' Associations in the Negotiation Environment**

The possession by teachers of many professional attributes does not eliminate the resemblance of their associations to labour unions. Although teachers' collective negotiations are conducted on a voluntary basis according to procedures established by custom rather than by legislation, many elements of the system are modeled upon the statutes and structure which apply to industrial collective bargaining. In both areas, the participants to the negotiating relationship comprise employees and an employer. In the educational environment, the government, functioning as the ultimate employer, may be equated to corporate management which delegates personnel management responsibility to subordinate levels of the organization. The individual school board, with its elected trustees and permanent administrators, may be viewed as branch management operating within the policy determined at corporate headquarters. In both situations, management associations with voluntary membership exist to provide advice and various kinds of assistance upon request. The industrial groups are employers' associations of either a specialized or general nature. Their educational counterpart is the Ontario School Trustees' Council (OSTC). Although under certain circumstances the OSTC may provide negotiating assistance, the direct participants in the bargaining situation are representatives of the school
board as the employer and of teachers as the employees. In this context, the consumers who directly or indirectly are affected by negotiated settlements are ratepayers and students.

Extension of the comparison to the employee side equates the coordinating provincial body, the Ontario Teachers' Federation, to the Ontario Federation of Labour (OFL). Each associate organization of the OTF, for example the Ontario Secondary School Teachers' Federation (OSSTF), may be compared to an autonomous individual union affiliated with the OFL. The district unit of the teachers' association resembles the local union which customarily adheres to policies set by the parent organization but which also possesses a degree of independence in local matters. Figure 1 illustrates a simplified representation of the comparative structures.

While this analogy provides a background for discussion of teachers' negotiations, differences in the status of the organizations in each system affect the conduct of bargaining. In the industrial situation, the extent of the delegation of the authority to branch management in salary matters, working conditions and production processes is determined by corporate headquarters. Delegation in the educational structure partially resides within the control of the Department of Education. Other matters affecting working conditions and teaching functions are determined by legislation which restricts the items within the school board's authority. Therefore, compliance with teachers' demands to extend the scope of negotiable matters may require changes in legislation rather than merely an adjustment in corporate policy. Another significant structural difference lies in the status of provincial bodies and their affiliates. National unions, acquiring through legal processes the right to represent a group of employees, join the provincial federation on a voluntary basis and retain the right to
enter into collective agreements and to conduct their own affairs. In contrast, the Ontario Federation of Teachers, not the affiliated associations of which it is composed, possesses corporate status. For this reason, the affiliates, although mentioned in the statute, do not have the legal authority to enter into formal collective agreements with school boards. The agreement between a board and a teachers' association therefore takes the form of a salary schedule rather than a conventional contract.

**Figure 1**

Comparison of Negotiating Structures in the Industrial and Educational Environments

An additional difference is the fact that teachers' associations have a legislated right to represent a defined segment of employees in their formal group relationships with management. Under standard labour legislation the certification process requires an employee organization to demonstrate
that it has the support of the majority of employees within a specified group. Representation rights depend on evidence of this support. In contrast, membership in the appropriate teachers' association is mandatory for anyone intending to teach in Ontario. This legal requirement is comparable to the industrial closed shop where union membership is a condition of employment. Statutory recognition of teachers' associations provides what would be termed automatic certification if it occurred in the industrial environment. Thus, in respect to continuance of membership, funding, and relative power position, teachers' associations possess a greater degree of security than do trade unions. This is also enjoyed by professional associations in the fields of medicine and law where licensing power rests with the professional group. In addition comparability exists in the delineation of standards of competence and related levels of classification. In a craft union, wages negotiated for different levels within an occupational group are often related to both the nature of the individual's training and his skill as assessed by examination and certification. The salary grids negotiated within the teaching profession are based on a classification scheme which reflects both legal requirements for teaching appointments and association-determined certification levels. Teacher salary grids, including increments for years of experience, show a use of the seniority-concept not found within industrial wage agreements.

Assessment of the mechanisms used in the negotiation process reveal additional points of similarity. In the private sector grievance procedures specified within the collective agreement must be adhered to by management, unions and employees for the resolution of disputes which arise from interpretation, application, administration, or alleged violation of the terms of the agreement. If the matter cannot be settled independently by
the parties, the dispute is submitted to an arbitration board for a binding decision under the provision of the Ontario Labour Relations Act (OLRA).

While many school boards have created relations committees or board-teacher liaison groups as forums for discussion of matters of mutual concern, the channels and procedures for the processing of grievances are neither formalized nor standardized. Except in cases of dismissal of a teacher, where a Board of Reference may be requested, or in a disagreement regarding the contents of an individual teacher's contract, where appeals may be submitted to the courts, there is no channel for final third-party resolution of grievances. In this respect, the educational system has adopted the concept of the grievance procedure without developing structures necessary to make the process operational.

The existence and imposition of sanctions as a component of the negotiation system offers a further point of comparison between the traditional union and the evolving professional approaches to collective bargaining. In the area of private industry, sanctions provide a method of applying economic pressures on management through the impact of production slowdowns on profit potential. The use of sanctions in the public sector where funds are derived from taxation rather than from sales income is directed towards the generation of political pressure through public inconvenience and public opinion. Since success may depend on the creation and maintenance of public support, the strike mechanism entails greater risk in the public than in the private arena. This factor in combination with the perception of the strike as an unprofessional activity and the legal prohibition of the strike in some areas has resulted in limited use of this mechanism by professionals. Strikes have not, however, been completely absent from the professional scene. From 1960-1967, the Province of Quebec
experienced 19 strikes by teachers. In 1967, in protest against the introduction of legislation which removed the strike right, teachers throughout the province held a one-day strike. Teachers in Alberta and Saskatchewan have also exercised their right to strike.

Teachers in Ontario, where the strike is neither specifically prohibited nor allowed, have preferred to use alternative sanctions, some of which contain characteristics of the strike. "Pink-listing" school boards to dissuade teachers from accepting positions with schools under a particular board's jurisdiction, mass resignations to create staffing uncertainty for a school board, working to rule, and study sessions are among the pressures applied by teacher associations.

Points of comparison between teachers associations and trade unions are the basis of debates as to whether teacher-board negotiations may be conducted within the labour-management model. In support of extension to teachers of the private sector system it has been noted that collective bargaining as a process for the implementation of shared decision-making is adaptable to most employment situations.2

All institutional structures, whether profit or non-profit oriented, possess common organizational features which tend to create a divergence of interests between employees and employers, and to stimulate the development of organizations for collective action. Each negotiation system requires some adjustment to meet the needs of the particular environment and to protect the public interest. These mechanical adaptations have thus far been made within the existing framework of education in Ontario.

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A different point of view, not exclusive to the educational system, envisions the teacher, administrator and school trustee as a team working to achieve a common goal. This implies an atmosphere of mutual interest and eliminates the sharp division of objectives apparent between employees and employers. A shared concern for the scope and quality of services provided replaces the conflict inherent in labour-management negotiations. Alas, it is a panacea, rarely achieved in this province.

To support and advance such a co-management orientation, the bargaining framework must be changed so as to eliminate structures which generate divisions and hostile sentiments. This view rests on the assumption that the presence of common interests means an identity of interests. Although, in a broad sense, the participants in the educational system do have common goals, their roles in the organization create different perceptions of the best means to achieve the ends. Professional standards frequently are in opposition to administrative requirements. Moreover, teachers are employees and, as such, have economic and personal welfare interests which are not shared by administrators.

Reasons for Collective Response

Assessment of the transferability of the labour-management model to teacher negotiations must occur against the background of teachers' expectations of collective bargaining. The goals to be achieved and the attitudes of the parties concerned will to a large extent determine the appropriateness of existing mechanisms. Collective action has traditionally arisen in situations where groups of individuals with similar interests have perceived a need for protection of their economic interests, occupational prerogatives or social welfare against the influence of powerful external forces. Does this requirement for protection apply to teachers functioning
within the present educational environment or are there other factors which prompt teachers to adopt negotiating procedures?

Ontario legislation contains a variety of measures which provide employment security for teachers who have fulfilled the educational qualifications for entry to the teaching profession. The power to prescribe entry qualifications rests with the Minister of Education under the Department of Education Act.\(^3\) The Act also requires school boards to have individual employment contracts with each temporary, probationary or permanent teacher. The standard form of the contract, established in the Ontario Regulations promulgated under the Act, guarantees employment for a teacher on an annual basis. In practice, once the individual has completed a probationary period, contract renewal is automatic although this is a matter of custom rather than a legislated right. The contract also specifies the salary which the teacher receives during the stipulated term. Disputes which arise between a school board and a teacher over contract items, including remuneration, may be submitted to the appropriate provincial divisional court for judgment.\(^4\) The Schools Administration Act provides for appeal of a divisional decision to the Minister of Education who may then submit the matter to the Ontario Court of Appeal. The submission of the appeal lies within the Minister's discretion. The Act also provides a channel for review of dismissals and contract terminations. A teacher who considers such an act unjustified may apply to the Minister of Education for the establishment of a Board of Reference to investigate the circumstances.


\(^4\)"Schools Administration Act", Revised Statutes of Ontario, 1960 C.361 (as amended to 1969), Section 17.
If the Minister grants the request, a Board comprised of a judge and representatives of the teacher and of the school board is formed. After inquiry into the dispute, the Board makes a binding decision on the continuance or termination of the contract.\textsuperscript{5}

While these statutes create mechanisms for appeals against administrative decisions, their potential as measures to ensure employment security is extenuated by the Minister's authority over the appeal submission decision. However, the existence of another statute, the Teaching Profession Act, increases the protection afforded the teacher. This Act created the Ontario Federation of Teachers (OTF) as a corporate body with functions which include the promotion and advance of the interests of members of the profession. In a case of individual injustice in an employment disagreement, this body and its affiliates may exert pressure upon the government to rectify the situation. Protection of individual rights in this respect, however, relies on influence rather than on defined legislated procedures. Uncertainty and lack of knowledge about professional rights is aggravated by the absence of a single source which consolidates information on matters and procedures for appeal.

Equity and objectivity in the classification of practitioners for the purpose of salary determination is guaranteed to some degree by the existence of a standardized method of assessing educational and experience qualifications for placement of individuals within the salary grid. Teaching qualifications are also delineated in the Ontario Regulations. The uniformity provided by the classification scheme developed by the Ontario Secondary School Teachers' Federation (OSSTF) depends on acceptance of the certification chart

\textsuperscript{5}Ibid., Section 25.
by school boards. Although boards adopt this system voluntarily in preference to devising individual schemes, they are under no compulsion to adhere to the Association's certification structure.

The desires for a clear definition of employment rights, for a greater degree of certainty and for assurance that their point of view will receive consideration only partially account for the interest of teachers in collective bargaining. As professionals, teachers consider decisions on matters such as curriculum development, teaching methods and appropriate pupil-teacher ratios to be within their sphere of competence. Decisions in these areas are at present within the purview of government officials or board administrators whose background may or may not include pedagogical experience and training. Demands by teachers for negotiation of working conditions demonstrates that consultation without participation in the actual making of decisions is no longer satisfactory. Collective negotiations are perceived as a method of gaining effective influence. Briefs to the Committee of Inquiry from district associations of the OSSTF uniformly recommend that negotiations include not only salary-related matters but also classifications, performance standards and in general all working conditions which affect instruction. In this regard, collective bargaining is expected to improve the performance of professionals through the placement of some control over professional decisions in the hands of practitioners. In support of this position, teachers' groups also point out that the fulfillment of their responsibility for the quality of education requires commensurate authority over content and techniques.

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6 Briefs to the Committee of Inquiry into Negotiation Procedures Concerning Primary and Secondary Schools of Ontario from: District 1, OSSTF (Windsor); Toronto Teachers' Federation; District 8, OSSTF (Hamilton) and District 15, OSSTF (Toronto City).
Beyond the need for protection of employment rights and the desire for participation, teachers recognize that collective action is an effective means of increasing compensation and improving, or as a minimum, maintaining their relative economic position within society. Professional associations, therefore, become instruments of countervailing power.

Collective bargaining as a process is accepted as a means of achieving these objectives. Indecision now centres on the question of the most effective and efficient basis for the conduct of negotiations. The alternatives are numerous. The existing voluntary arrangements could be continued. The exclusion of teachers from the Ontario Labour Relations Act could be removed. Teachers could be included in a statute governing all provincial public employees. Labour legislation specifically designed for teachers could be introduced. A comprehensive professional negotiations act could be legislated. Statutes adopted in other Canadian provinces illustrate the variety of approaches which may be followed. In British Columbia a single statute consolidates the provisions relating to the province's educational system. The Public Schools Act defines the power and authority of the Department of Education, outlines the duties and responsibilities of boards of trustees, establishes the B.C. Teachers' Federation and specifies its authority, and provides a specific procedure for the conduct of negotiations. Alberta teachers possess bargaining and strike rights under the general Alberta Labour Act. In Saskatchewan, the Teacher Salary Agreements Act exists as a separate statute for teacher negotiations. The clearly defined processes in these provinces contrast sharply with the Ontario situation where, despite the existence of 6 statutes concerned with education, bargaining procedures are

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not delineated. While formalization of Ontario arrangements is desirable from the perspective of the parties concerned and the public, the structure adopted must be compatible with the province's educational framework.

**Ontario Educational System**

**Government Control**

Under the Department of Education Act, final responsibility for and control of education rests with the Department and the Minister of Education. The Minister's powers, which apply to teacher training, vocational institutions, and elementary and secondary schools, include the definition of courses of study and subjects which may be taught, and prescription of the powers, duties and qualifications governing the appointment of teachers, supervisors, principals and inspectors, the making of regulations for the granting of certificates of qualification and prescription of the form of the contract entered into between school boards and individual teachers. The Minister has the further authority to rule on all appeals submitted to him from a decision of a principal, inspector or other school officer. These provisions establish the Department's control over the content of education and over the school's recruitment and general personnel policies.

In the area of finance, the Minister holds the authority to apportion legislative funds for educational purposes, to stipulate the conditions for payment of legislative grants and to define approved capital costs and operating costs. A 1968 amendment to the Act extended the Minister's authority to include approval of the expenditures which a board may make for any purpose. The first application of the 1968 amendment occurred in 1971.

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when, in an effort to restrain education costs, the Department imposed ceilings on local board expenditures. Prior to this time, the only obligation placed upon school boards was the requirement to provide a minimum level of education. Beyond this, boards possessed the autonomy to determine the level and needs of education in their particular communities and to raise the necessary additional financing through taxation. Expenditure ceilings applied to all expenditures regardless of the source of funding. The Department's administration of the annual grant portion of a school board's funding and the power to withhold grants for violations of regulations ensures the board's adherence to centrally determined policies.

A further element of Departmental control resides in the regional councils which are established for each of the ten educational regions. A director appointed for each area meets with directors of local boards of education for the discussion of procedural requirements in matters where the board is responsible to the Minister of Education. While this council may occupy itself solely with administrative matters, it also is a potential forum for the application of pressure on a recalcitrant board.

**Boards of Trustees**

The expenditure restrictions limit the authority of locally elected school boards which share with the Department the responsibility for education. Subject to the expenditure ceilings, the local board determines the budget requirement for capital and operating expenses, and calculates the amount which will have to be obtained in excess of the legislative grant through local property taxes. In addition to responsibility for the building and maintenance of schools and the provision of supplies, school boards are charged with the appointment of principals and teachers, and the
determination of teachers' terms of employment, salaries and specific duties. In effect, however, the authority to establish teachers' salary scales is now subject to indirect government control. Since boards no longer control the total expenditure, the allocation for teachers' salaries must be restricted or the board must be willing to introduce compensative expenditure cutbacks in other areas of the educational programme. This expansion of provincial power in Ontario tends toward the structure of the provinces of Quebec, New Brunswick and Newfoundland where the provincial governments' control over educational financing includes the establishment of salary levels.

Boards of trustees in Ontario may exist as boards of education, boards of high school trustees, boards of public school trustees or boards of separate school trustees. For purposes of educational administration, the province is divided into jurisdictions each under the control of a board. Beginning in the 1950's, a programme was undertaken to reduce the number of school boards through amalgamation of small units. As illustrated in Table 1, between 1955 and 1965 the number of boards was reduced by almost two-thirds. During the same period, the number of teachers employed by boards almost doubled. The trend to larger administrative districts continued throughout the 1960's culminating in 1969 in a major consolidation of the province's public, separate and secondary school boards. This rationalization of the administrative structure reduced, within a space of 14 years, the number of boards from over 4,000 to 192. 1969 legislation also provided that all trustees are to be elected locally by the ratepayers in the appropriate jurisdiction. Boards in districts

9"Schools Administration Act", op. cit., Sections 34 and 35.
<table>
<thead>
<tr>
<th>Year</th>
<th>Schools in Operation</th>
<th>Boards Operating Schools</th>
<th>Ratio of Boards To Schools</th>
<th>Number of Teachers</th>
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<td>Elementary</td>
<td>Sec'ry</td>
<td>Total</td>
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<td>375</td>
<td>7,415</td>
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<td>1960</td>
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<td>567</td>
<td>4,923</td>
<td>190</td>
</tr>
</tbody>
</table>

1 Including Roman Catholic Separate Schools.

2 Less duplication where boards operate both elementary and secondary schools.

Source: Compiled from Reports of the Minister of Education, 1960-Table 40, Table 62; 1964-Table 40, Table 64; 1965-Table 40; 1966, 1967, 1968 and 1969-Table 1.1, Table 1.31 (Ontario Department of Education).
with more than 2,000 students employ a Director of Education who co-
ordinates the administrative aspects of education and also functions as
a liaison between the board and the Department of Education.

Teachers' Associations

Development

Within this framework exist associations of trustees and of teachers.
Teachers' associations in Canada first appeared in the 1850's under the
sponsorship of the provincial departments of education as institutes for
the promotion of in-service training, for public discussion of educational
problems and as forums for the public announcement of policies by minis-
ters of education. Membership in provincial groups such as the Ontario
Educational Association included teachers, trustees and provincial officials,
representatives of home and school groups and other interested laymen. The
limited functions of the associations provided little opportunity for the
discussion of policies relating to salaries, tenure, pensions, and other
matters central to teachers' economic and social welfare. The restricted
role of the early institutes and growing dissatisfaction with their economic
position relative to other groups in society stimulated teachers to form
specialized associations under professional control. The inflationary
period during World War I and lagging teachers' salaries spurred the organi-
zation of ten of the current sixteen provincial associations. The provin-
cial groups at this time were federations of local urban associations
in which membership was voluntary. Although by the end of World War I
teachers' salaries had reached a level 65% above average personal income
in Canada, support for the associations remained low during the 1920's
and declined in the depression of the 1930's. Lay-offs and salary cuts reduced the financial resources of the groups and weakened their strength in the negotiation process.

In Ontario, the first provincial organization formed was the Federation of Women Teachers' Associations in 1918. This was followed in 1919 by the creation of the OSSTF whose concerns centred on raising the status of the teaching profession, increasing teachers' job security and gaining greater influence in the determination of educational policy. OSSTF membership, approximately 1,000 in 1920, gradually expanded by 1930 to a level of 86% and by 1943 to 90% of potential membership. Increased interest in collective action arose from several developments during this period. Changes in provincial legislation regarding compulsory school attendance raised school enrollment and contributed to a teacher shortage which improved the power potential of the associations. The trend to greater urbanization increased the geographic concentration of teachers and provided more opportunity for interaction. Demonstration by trade unions of the gains which a collective response could achieve also influenced membership growth. Beyond salary improvements, teachers began to realize that associations could fulfill a role in placement assistance and the acquisition of medical and life insurance benefits.

1920 also saw the foundation of the Canadian Teachers' Federation (CTF) as the national advocate of collective bargaining and salary improvement for teachers. As provincial associations gained strength, however, the CTF became a body for the co-ordination of information, the promotion of

inter-provincial co-operation and the promotion of research in education and professional development.

The problem of an uncertain and unstable membership base and the concomitant lack of financial stability prompted provincial associations to petition governments for legislation which would make membership a condition of employment. Automatic inclusion in the appropriate teachers' group and deduction of fees from the teacher's salary would free associations from the expense of membership campaigns and would ensure that all those who benefited from the association's efforts would share in the costs. Compulsory membership was also perceived as a means of gaining statutory recognition of teachers as professionals. Saskatchewan, in 1935, was the first province to establish the provincial federation as a statutory body with compulsory membership and payroll deduction of fees. Other provinces, subsequent to policy reviews, enacted similar legislation. Alberta, Ontario, New Brunswick and Saskatchewan possess legislation for compulsory membership. In 1971, this feature was removed from the British Columbia statutes. The remaining provinces temper the provision for automatic association membership with a clause which allows teachers to discontinue membership at a specified time each year. Associations in these provinces possess less power and control over individual teachers in the negotiation context.

Current Status.

In Ontario, the instrument for the recognition of the Ontario Teachers' Federation as the corporate professional organization of teachers is the 1944 Teaching Profession Act. The objectives of the OTF, similar to the original position of the CTF, includes the improvements of salaries and working conditions, the establishment of a code of ethics and system of
discipline, and the acquisition of effective participation in educational policy decisions. The OTF, as a federated body, does not have power separate from that of its affiliates. The Federation's Board of Governors consists of 50 members, 10 each from the Ontario Secondary School Teachers' Federation, the Federation of Women Teachers' Association of Ontario, the Ontario Public School Men Teachers' Federation, the Ontario English Catholic Teachers' Federation and L'Association de l'Enseignement Francais de l'Ontario. Each affiliate is organized on a provincial basis with its own constitution, executive and board of directors, and retains autonomy in matters relating to its members. OTF policies must gain the approval of the affiliates prior to promulgation by the Board of Governors. The OTF, as a central organization, functions as liaison with the Department of Education on matters concerning standards of entry to the profession, the supply of teachers, salary levels and the quality and delivery of education. The Federation, subject to the approval of the Lieutenant Governor in Council, also may establish regulations for the suspension, expulsion and general discipline of members. 11

Control

Although teachers' associations cannot directly control entry to the profession or expel members without a review of such action, these organizations do exercise a significant influence on the government's certification policies. In the Atlantic provinces and in Manitoba, certification is a subject of informal consultation between the Department of Education and teachers' groups. Quebec teachers have membership, but not a majority

voice, on a 10-member certification board. In Saskatchewan, the teachers' federation appoints a representative to each of three committees which advise the Minister of Education on certification matters. Ontario certification responsibility also rests with the Department of Education. For secondary school teachers, however, the OSSTF in 1957 adopted a four-category certification plan to classify teachers for academic purposes in accordance with their experience and academic qualification. The administration of the system is conducted by a Certification Board which evaluates teachers' certificates, degrees and diplomas against a definite published standard and issues certification statements which indicate a teacher's category placement. By 1960, most Boards of Education had adopted the OSSTF plan for use in salary negotiations. Teachers may appeal ratings made by the Certification Board and may apply for a change of rating upon up-grading of qualifications.

A further element of professional control by the OSSTF exists in the issuance of a Document of Approval to all qualified teachers after the completion of one year of teaching. Subsequent to investigations of incompetence these Documents may be revoked as an indication that the individual has lost the support and approval of the Federation. Although this policy does not give the OSSTF absolute control over teachers' continued employment, pressure is applied to persuade school boards to employ only teachers who hold a Document of Approval.

The compulsory nature of OTF membership is another aspect which places a significant measure of power with the associations. Teachers in Ontario do not have the right to representation by an organization of their own choosing or to withdraw from the organization if they disapprove of policies or objectives. Teachers' freedom of individual choice, particu-
larly in the event of negotiation disputes, is to some extent protected by the membership procedure. The expulsion from the Women Teachers' and Public School Men Teachers' Federations of members who did not adhere to their organizations' "pink-listing" directive did not prevent the individuals concerned from teaching. Since teachers are required by statute to belong to the OTF, not to the affiliate, the "pink-listing" and expulsion would have to be implemented by the central body in order to preclude the teacher from practicing.

In addition to functions related to the maintenance of professional standards and discipline, teachers' associations provide a variety of services for their members. Teachers encountering difficulties in their relationships with a school board, principal or administrator may register complaints with the association which will attempt to resolve the problem or will make recommendations. In the area of negotiations, the provincial organization advises its affiliates on annual salary policy and serves as a source of salary information for members and negotiating units. These bodies may assist district units if a negotiation impasse develops. The associations also conduct studies to determine the impact of educational innovations on teaching and learning conditions. The results of these examinations frequently form the basis of negotiations on working conditions. Further assistance in the bargaining process is provided in the form of data about super-annuation plans.

**Trustee Associations**

In 1944 with the passage of the Teaching Profession Act, the need for a central provincial organization to serve as the forum for discussion

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12Muir, J. D., *op. cit.*
of common problems and co-ordination of the activities of school boards became evident. This resulted in the formation in 1949 of the Ontario School Trustees Council (OSTC). In 1953, the OSTC Act, sponsored by the Department of Education, gave the organization corporate status as a federation of provincial trustee associations. Amalgamation of trustee groups reduced the number of member organizations from seven to four as of 1971. Local school boards attain affiliate membership in the Council through their provincial body. In contrast to the position of teachers' associations, membership in the OSTC is voluntary. Nor does the OSTC possess any authority over member boards. To function as an effective balance to the strength of teachers' associations, the OSTC depends on the unanimous support of member groups. Although the status and power position of the OSTC are somewhat more tenuous than those enjoyed by the teacher groups, by 1970 99% of Ontario teachers were employed by boards affiliated with OSTC.13 This breadth of membership affords the Council the potential for a consolidated stance in opposition to bargaining demands of provincial teacher associations.

The OSTC's primary role is the representation of membership views to the OTF and to the Department of Education on educational and administrative questions. In addition, the Council co-ordinates the bargaining activity of school boards and may serve in a consultative capacity in local negotiations. Only in the event of impasse does the Council enter directly into negotiations. To achieve a uniform position in bargaining, the OSTC holds an annual salary conference to draft guidelines for discus-

13 Ontario School Trustees Council Brief to the Special Committee of Inquiry into Negotiation Procedures Concerning Primary and Secondary Schools of Ontario, February 1971.
sion at regional meetings or by individual boards. Since support of the Council's recommendations is voluntary, the guidelines may be ineffective if boards compete with one another in order to attract teachers. However, the awareness that the Department of Education may interfere if costs are not controlled acts as a deterrent to inter-board rivalry and lends support to the Council's recommendations.

Under the influence of government control, teachers' associations, and trustee organizations, collective relationships between teachers and their employers gradually developed.

Development of Collective Negotiations

During the 1920's, school boards in some districts granted recognition to teachers' associations for the discussion of salary levels. The refusal of other jurisdictions to negotiate with teachers led to wide disparities among the salaries received in various areas. With the advent of the depression in the 1930's, salaries were reduced even in districts where recognition had been initially obtained. The resultant economic insecurity emphasized the need for a mechanism whereby teachers' associations could gain official recognition and apply group pressure to compel boards to negotiate salary levels. In Ontario, efforts to introduce financial security first took the form in 1931 of petition for a standard contract for teachers and for the creation of a board of reference to rule on salary disputes between individuals and boards. These objectives were finally achieved in 1943. Prior to 1944, teachers' associations remained voluntary, represented only a minority of teachers, and were largely ineffectual in pursuing salary improvements. Most boards did not have salary schedules and those which adopted plans did so with little prior teacher consultation. School boards,
acting independently, evinced little interest in co-ordination through trustee associations. During this period, board-teacher discussion centred on matters of job security rather than remuneration.

With the passage of legislation establishing the OTF as a professional organization with compulsory membership, teachers' associations became organizationally and financially sound. This improvement in position, together with the teacher shortage and post-war inflation, led the associations to adopt a forceful approach in their relationships with school boards. Some teachers' groups were able to employ specialists to provide bargaining assistance for local units. Although formal salary schedules became more common, agreements rarely took written form. In the 1950's, salaries improved, and negotiations began to occur on non-salary matters such as leave policies and insurance plans. Sanctions were imposed in the 1950 mass resignation of secondary school teachers in Sudbury and the 1953 "pink-listing" of the Toronto Board of Education. By 1956, collective bargaining on a voluntary basis had gained acceptance within the educational system. Agreements appeared as school board resolutions, jointly signed memoranda or more formal documents.

With the negotiation emphasis on salaries during 1956-64, the relative position of teachers improved. Table 2 illustrates the median salaries of teachers from 1955-69. The increase in provincial education grants from approximately $159 million in 1960 to $635 million in 1969, the competition among school boards as a result of the teacher shortage, and the difficulty of co-ordinating the bargaining activity of over 4,000 boards contributed to teachers' gains during this period.

The role of the provincial headquarters of teachers' and trustees' associations in Ontario has primarily been that of intermediaries. In the
## TABLE 2

**MEDIAN SALARIES OF TEACHERS**

**IN ONTARIO** *(1)*

<table>
<thead>
<tr>
<th>YEAR</th>
<th>ELEMENTARY</th>
<th></th>
<th>SECONDARY</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>MALE</td>
<td>FEMALE</td>
<td>MALE</td>
<td>FEMALE</td>
</tr>
<tr>
<td>1955</td>
<td>$3,690</td>
<td>$3,010</td>
<td>$4,850</td>
<td>$4,460</td>
</tr>
<tr>
<td>1960</td>
<td>4,902</td>
<td>4,084</td>
<td>7,355</td>
<td>6,605</td>
</tr>
<tr>
<td>1964</td>
<td>5,261</td>
<td>4,515</td>
<td>7,481</td>
<td>6,608</td>
</tr>
<tr>
<td>1965</td>
<td>5,510</td>
<td>4,737</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>1966</td>
<td>6,440</td>
<td>5,351</td>
<td>8,868</td>
<td>7,904</td>
</tr>
<tr>
<td>1967</td>
<td>6,792</td>
<td>5,597</td>
<td>9,157</td>
<td>7,956</td>
</tr>
<tr>
<td>1968</td>
<td>6,956</td>
<td>5,984</td>
<td>9,418</td>
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</tr>
<tr>
<td>1969</td>
<td>7,349</td>
<td>6,049</td>
<td>9,649</td>
<td>8,249</td>
</tr>
</tbody>
</table>

*(1)* Includes principals' salaries.

**Source:** Reports of the Minister of Education, 1966-69, Table 2.2.
event of a bargaining impasse, the OSSTF, for example, and the OSTC might enter negotiations as participants. The final decision as to acceptance or rejection of a settlement remained with the local board and teachers' group. After a brief experiment with a system whereby the provincial executive assumed responsibility for negotiations and acceptance of settlements, the OSSTF returned to a policy of local autonomy in 1968.

Seven Canadian provinces have enacted legislation outlining bargaining rights and procedures for teachers. Teachers' participation in salary determination in Newfoundland and Prince Edward Island extends only to the submission of briefs to the government. The basis of bargaining in Ontario remains that of voluntary recognition by individual Boards and the OSTC.

Current Status of Collective Negotiations

Subsequent to 1964, several factors influenced a change in the relative positions of teachers and school boards. As salaries became more attractive, the number of persons entering the teaching profession increased at a time when the birth rate was declining. With a tightening job market, greater numbers of university graduates turned to teaching careers. These factors resulted in a surplus of teachers in some specialties and weakened the bargaining position of staff organizations. During 1969, a slowdown of the national economy and growing public reaction against spiralling education costs aggravated the decline in power of these organizations.

A further development which increased the strength of the school boards occurred in the 1969 re-organization of school jurisdictions. The amalgamation of small units increased the resources available to the new and larger boards and permitted many boards to assign full-time responsibility for negotiations to an industrial relations specialist. Jurisdictional
Integration brought mergers among the trustee associations which reduced to four the number of provincial organizations. This amalgamation increased the OSTC's ability to co-ordinate school board bargaining and contributed to greater solidarity among boards.

The 1970 introduction by the Department of Education of per pupil expenditure ceilings for 1971-72 decreased the flexibility of boards in negotiations but simultaneously imposed limitations on the salary demands which teachers' associations could practicably pursue. With absolute expenditure levels subject to government direction, the negotiator's authority in salary matters obviously has been greatly restricted, while the "real" employer does not participate at all in the bargaining process. If this change achieves permanency, teachers' associations might demand provincial government involvement similar to that in Quebec and the Atlantic provinces. The result of this could be pressure for provincial or regional salary schedules and the development of a centralized bargaining structure.

**Conduct of Negotiations**

In Ontario, teachers have no legal right to bargain, to choose their bargaining representative, to submit disputes to an impartial third party for resolution, or to participate in the formulation of policies governing professional recruitment, education, certification or the content and conduct of the educational programme. The voluntary system of negotiating has evolved without a definition of the rights of the parties or the matters which may be negotiated. There is no specific prohibition of the use of the strike by teachers. There is no requirement for agreements to be processed as formal documents, nor any standardized period for negotiations, not an effective date for agreement adoption. Bargaining units are not
clearly defined as to geographic or classification scope. This lack of formality has protected teacher negotiations from the restrictions of legalism but at the same time has contributed to situations where bargaining sessions have been entirely occupied with the effort to obtain agreement on procedural matters.

**Location**

Negotiations within the educational system could occur at several levels. Teachers in a single school could comprise a bargaining unit which would negotiate with a school board. All teachers employed by a given school board could be in one bargaining unit and undertake joint negotiations. Within a single jurisdiction elementary and secondary school teachers may negotiate with the board as separate units. Bargaining could be conducted on an area or provincial basis between representatives of the OSTC or the government. The first alternative has been rejected as being inefficient, as promoting inconsistency in salary levels, and as inhibiting the development of bargaining sophistication among teachers. Regional bargaining has, to the present time, been avoided since it would ignore local conditions, introduce obstacles to communication between teachers and their bargaining representatives, and deprive local boards and teachers of autonomy in their interaction. Local negotiations, with involvement by the central provincial groups only upon request, characterize the Ontario system. As a remnant of a period when there existed a divergence between the qualifications of elementary and secondary school teachers and when different boards employed each group, school boards negotiate separately with these two groups. With the present seven-category schedule where all seven levels apply to elementary teachers and the highest four apply to the secondary
segment, separate negotiations result in inequities between the salaries of teachers who possess equal qualifications. Although teacher associations are largely unwilling to conduct joint elementary-secondary negotiations, OTF policy suggests that members of affiliate associations employed by a single board may act in concert to obtain salary parity based on qualifications, experience and responsibility.

Subsequent to the consolidation of Ontario school jurisdictions, boards have given increased consideration to the introduction of area bargaining. For example, in Metropolitan Toronto the re-organization placed financial authority with the Metro School Board while the six area boards retained their status as employers of local teachers. After a dispute over local autonomy teachers agreed in 1968 to establish a common salary schedule through negotiation at the Metropolitan level with chairmen of the area boards. This procedure has, however, increased the distance between teachers and the employing boards and resulted in less attention to local problems. Competitive salary levels as a means of attracting teachers have also been eliminated. As a balance to these disadvantages, greater efficiency in bargaining and the creation of salary uniformity in areas where the cost of living is comparable are cited. Opposition to area bargaining has its principal source among teachers' associations. Recent OSTC salary conferences, emphasizing the need for regional co-ordination, have created provincial salary guidelines. Based on this advice, boards independently determine their position in recognition of special local conditions and problems. The general levels outlined do, however, increase the solidarity of trustee groups and the consistency of salary offers within particular areas. Although the trend in Ontario is to greater co-ordination within regions, the desire for autonomy at the local level indicates that provincial negotiations would
be unacceptable to both boards and teacher groups.

**Timing and Agreement Status**

The Ontario Municipal Act stipulates that school boards must submit their annual budget estimates to municipal councils by March 1st.⁴ If negotiations with teachers for salary levels for the ensuing year have not been completed prior to this date, accurate budget calculation is precluded. The problem is aggravated by the fact that the size of legislative grants is not known until after January 1st. In Ontario, most salary agreements based on the school year expire on August 31st. Since the effective dates of agreements are a matter of local determination, some schedules, conforming to the calendar year, expire on December 31st. Dates for the initiation of bargaining also lack standardization. Where the calendar year is used, time constraints may impose pressures on the parties which inhibit full bargaining. Additionally, such timing implies that negotiations in any year will have an impact on the budgets of two years and may place undue stress on the previously established current budget. Further to the creation of difficulties in the area of financial planning, the absence of a negotiation cycle promotes pattern-setting. Less powerful groups of teachers may delay agreement until a trend has been established in the settlements obtained by groups in a stronger position. In the timing of agreements, British Columbia has stipulated that the effective date of all agreements is January 1st with negotiations usually initiated in September. In Alberta negotiations begin in January to conclude agreements which conform to the school year.

Salary agreements, customarily completed on an annual basis, do not

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have legal status since the teachers' associations are not corporate bodies. Under the present legislation, agreements could only attain status as legally binding documents if the OTF rather than the affiliate were the signatory. Since collective agreements, which include items relating to working conditions as well as to salaries, would not be enforceable on teacher associations, school boards have been reluctant to adopt more comprehensive agreements. Since teachers have been unwilling to transfer signing authority to the OTF, salary schedules remain in the memorandum format.

Negotiating Representatives and Units

At the present time, negotiations with school boards are conducted by teachers as representatives of district units of the appropriate provincial associations or by negotiation specialists employed by the local associations. Recognition of the teachers' bargaining committee by school boards is voluntary. In consideration of the nature of professional associations and their responsibility to the public, there is some question as to whether a single association can simultaneously protect the public welfare and the economic welfare of its members. This problem acquires additional importance in view of the desire of teachers' associations to gain a measure of self-regulation through participation in the determination of certification and selection criteria. A further element of this dilemma is the compulsory nature of membership in teachers' associations. This regulation imposes involvement in collective negotiations upon teachers without regard for individual preference. These considerations suggest the removal of negotiating responsibility from the professional associations and the creation of separate, voluntary organizations to represent the economic interests
of teachers.

The composition of the negotiating unit also influences the selection of the appropriate representative agent. By virtue of their possession of teaching certificates, school principals and vice-principals are statutory members of teachers' associations. In situations where these officials are not included in the negotiating unit, a management-employee schism could occur within the association. Another aspect of this problem may develop from the increased use within the schools of teaching assistants and other paraprofessionals. Personnel at this level do not possess teaching certificates and are not members of professional associations. Due to their community of interest with teachers and their involvement in the education process, they may be included in the negotiation unit. If, however, they do not hold association membership, they cannot be represented by the professional group.

Debate on unit composition currently emphasizes the question of the inclusion of principals. Teachers' associations express the view that a negotiating unit should include all those in the employ of a single school board who hold a teaching certificate with the exception of the director, superintendents and inspectors. In the majority of jurisdictions, as mentioned above, elementary and secondary school teachers negotiate separately with boards. Several district associations have suggested that, with the agreement of the individuals concerned, the unit could be comprised of teachers employed by several boards within a particular area.

In Ontario the salaries of principals are negotiated at the same time as those of classroom teachers. Advocates of this procedure stress that the managerial functions of principals extend only to the administration of the school and the supervision of students and do not include direct respon-
sibility for the appointment, dismissal or discipline of teachers. Since the superintendent as the representative of the board submits recommendations for probationary or permanent appointments and for promotions to supervisory positions, inclusion of principals in the bargaining unit does not generate a conflict of interest. According to this view, the unit should include all members of the professional teaching team since they have a common interest in the provision of the highest quality education and since they are subject to common leave policies, pension plans and other operational regulations.

Contrary to this position is the claim that a community of interest does not entail an identity of interest. This view rests on the inability of superintendents to manage independently all the schools within the enlarged jurisdictions. Reliance on principals for assistance has increased the principals' responsibility for personnel management and supports their exclusion from the negotiating unit. This argument gains strength when one considers the duties of the principal as contained in the Ontario Regulations. In addition to administrative functions, the principal, upon the request of the board, has the authority to recommend appointments to the teaching staff, to recommend the promotion, demotion and dismissal of teachers, to assign supervisory duties to teachers and to report on the efficiency of the teaching staff. Although these reports are transmitted through the superintendent, the initiative rests with the principal. This power of evaluation and effective recommendation negates the arguments for the inclusion of principals in the unit. In New York State, where a similar

situation exists, principals constitute a separate bargaining unit although this division is not required by law.

Despite some suggestion that principals be excluded entirely from negotiations, the prevailing opinion among the advocates of the conflict of interest position supports the creation of separate units for principals. The composition of such bargaining units raises additional questions.

In the absence of clear cut criteria to define supervisory positions, there is uncertainty regarding the inclusion of department heads who are responsible for managerial assistance to the principal. This suggests that an administrative unit composed of principals and department heads might be separated from the non-administrative teaching group.

The extension of the teachers' bargaining unit to include satellite personnel such as teaching assistants, counsellors and substitute teachers presents an additional problem. While these individuals may not hold teaching certificates, they are clearly part of the educational unit with definite specialized functions in the teaching-learning process. Jurisdiction for their exclusion from the negotiating unit is based solely on non-membership in a teachers' association.

Scope of Negotiations

In Canada, considerable variation in the subject matter of negotiations is evident among the provinces. British Columbia legislation, restricting bargaining to salaries and bonuses, in fact includes many non-salary items since the bonus system affects a wide range of areas. In Alberta, negotiable matters include rates of pay, hours of work and other terms and conditions of employment. Bargaining conducted at the provincial level in Quebec includes salaries, workload, leaves of absence, evaluation
of teachers' qualifications and working conditions. Supplementary negotiations at the local level may include additional items. In Ontario, where until recently negotiations dealt only with salary matters, the situation is typified by a lack of definition of the scope of negotiations. This has led to the expenditure of excessive amounts of negotiating time on disagreements between teachers' associations and boards over negotiable items.

The teachers' position as expressed in briefs submitted to the Committee of Inquiry, maintains that bargaining should include all matters which arise from the teacher-employer relationship. The argument notes that teachers by virtue of their professional training are more qualified to determine educational policies than are lay members of school boards. The close relationship between policies and working conditions prompts teachers' demands for the negotiation of items such as class size and pupil-teacher ratios. Professional groups point out that class size has a significant effect on the teacher's performance and the quality of education and, therefore, is an appropriate subject for negotiation. Since the determination of pupil-teacher ratios in Ontario lies within the local board's authority, negotiation of this item at the local level is also feasible. Further subjects which might be brought within the range of bargaining include systems of teacher classification, reduction in staff size, performance standards, the use of paraprofessionals and general working conditions. Under the latter category are found matters ranging from increased availability of clerical and secretarial assistance to limitations on extra-curricular duties and the establishment of grievance committees.

In the area of salaries, merit pay schemes have been a recent addition to negotiations. Despite mutual agreement on the desirability of a system which allows financial recognition of superior performance, teachers'
associations and boards have generally been unable to decide upon the
criteria for evaluation or upon the composition of an evaluation board.
The subjectivity inherent in assessment plans and the difficulty of judg-
ing a teacher's total contribution to a school have precluded the wide-
spread adoption of merit plans as a negotiable topic. The brief plan
developed by the board and teachers in Metropolitan Toronto will allow
superior teachers to be designated as career appointment teachers, and
thus to become eligible for merit pay. Teachers' uncertainty as to the
practicality of the scheme, however, is reflected in the stipulation that
inclusion in the scheme is optional for each teacher.

From the point of view of school trustees, any extension of the
scope of negotiations would constitute an infringement upon management
rights and an erosion of the responsibility of boards for the operation of
the school system. Trustees contend that while teachers have an interest
in education policy mutual concern does not imply joint authority. In a
discussion of the implications of including working conditions as a nego-
tiable matter, the OSTC stated that the term 'conditions of work' means
anything which affects the environment within which a teacher performs
his educational function. Agreement to negotiate working conditions
would open discussion of determination of class size, curriculum content,
allocation of the school budget, and promotions. Trustees also note that
school boards do not have final authority in some of these areas which are
subject to government legislation and regulation. In specific reference
to the negotiation of pupil-teacher ratios, the effect of these demands
on other areas of school administration has been stressed. Reduction of

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the ratio throughout the province by one pupil would increase the cost of education by $45 million. A change of this nature would affect current operating costs and capital expenditures, and would necessitate a reduction in the budget allocation to other areas such as supplies, maintenance and salaries. Boards also note that this item is inappropriate for negotiation since the most effective class size depends on the school size, curriculum and nature of the particular subject and, therefore, is not an absolute figure which can be applied even within a single jurisdiction.

Although school boards express a willingness to consult with teachers on policy matters, they are not prepared to transfer or share administrative control with professional associations. Under the present structure, boards may provide for consultation with teachers and ratepayers through the establishment of School Board Advisory Committees. These committees, whose terms of reference do not include the discussion of salaries or personnel policies, may submit recommendation to the board on any educational matter.18 This mechanism does not, however, provide the degree of participation sought by teachers.

Dispute Settlement

The increase in the number of disputes between school boards and teachers in Ontario and the rise in the incidence of sanctions imposed by teachers' associations have demonstrated the inadequacy of the impasse resolution mechanisms. In Ontario, where there is no legislated right or prohibition regarding the strike, teachers' associations have restricted the

\[17\] \text{OTF Reporter (No. 18, Autumn, 1970), p.24.}
\[18\] "Schools Administration Act", \text{op. cit.}
use of sanctions to strike alternatives. "In-dispute designations" applied by the provincial associations occurred as a result of disagreements in 1967 between the OSSTF and the Toronto board, the OECTA and the Ottawa separate school trustees, and the FWTAO and OPSMTF and the North York board. Conforming to the changes in areas of importance to teachers, disputes in 1970 shifted from concentration of salaries to the refusal of boards to negotiate working conditions. "In-dispute designations" take the form of "pink-listing" a school board to dissuade teachers from accepting positions with that board while the dispute is in progress. Mass resignations are frequently combined with the "pink-listing" to generate further staffing uncertainty within the school board. Since teachers in Ontario under their individual contracts may resign only on May 31st or November 30th of each year, mass resignations may be collected by the association at any time and are held as a pressure tactic until the effective date. Other sanctions applied by teachers include study sessions which could be construed as one-day strikes, working to rule which involves the refusal to participate in extra-curricular activities, and the use of political pressure and lobbying. In 1970, the OSSTF "pink-listing" of the Metropolitan Toronto board and the mass resignation of teachers led the OSTC to retaliatory action in the form of a moratorium on hiring in all Ontario secondary schools.

These unsatisfactory measures for the resolution of differences prompted a review of the current voluntary structures for mediation of disputes. The procedure in effect in Ontario was developed by the OTF and its affiliates in co-operation with the OSTC and the province's trustee associations in order to provide an element of third-party intervention. In contrast to the mediation mechanisms used in other areas, neutrality is
not characteristic of the assistance available to the parties in a dispute. If an impasse develops at the local level, the school board may request assistance from the appropriate trustee association and the teachers from their provincial federation. If agreement cannot be reached by this means, the school board may submit a request for further mediation by the OSTC. In addition to advice and encouragement to continue negotiations, the provincial bodies may provide statistical information and the assistance of an industrial relations expert. The final decision on the settlement remains with the local board and the district teachers' association. In experiments with neutral third-party intervention, mediation proved successful in Metropolitan Toronto in 1968 and in Kingston in 1970, and conciliation brought agreement in Hamilton and Ottawa in 1970. Although the present procedures are not always effective, the parties in Ontario are opposed to compulsory government involvement and prefer to rely on their provincial organizations for conciliation.

Beyond the stage of conciliation, there are no formal mechanisms to obtain resolution of differences. The options then open to the parties are reference to further negotiations or the imposition of sanctions.

The authority for the issuance of a "pink-letter" or for the calling of a mass resignation rests with the provincial executive of the teachers' associations. Although teachers are under no compulsion to abide by "pink-listing", a refusal to support the association will entail the withdrawal from the individual of federation assistance in any salary or professional problem he may have with his employing school board. "In-dispute" designations as a pressure tactic carry disadvantages for teachers as well as for boards. To obtain their intended impact, "pink-listing" and mass resignations must occur in a situation where a teacher shortage exists. If a sur-
plus exists, the risk to a teacher of being unable to find employment if a mass resignation is accepted may decrease his willingness to adhere to the association's policy. The uncertainty generated by a "pink-listing" may force teachers to face the inconvenience associated with accepting a position in another jurisdiction.

The need for solidarity exists to an equal extent among school boards. Retaliation by the OSTC in the imposition of a moratorium on hiring depends for its effect on the support of all school boards. Since the boards are to a degree in competition with one another and are required to act in the best interests of their communities, adherence to a moratorium is difficult to obtain. Threats by teachers to walk-out, to book out sick and to impose work slow-downs may also weaken board solidarity.

Briefs submitted by teachers' associations to the Committee of Inquiry emphasize that the ability to withdraw services is an inalienable right of any professional or non-professional in an employment situation. The briefs also suggest that resort to strike action can be avoided if efficient measures for pre-strike dispute resolution are formally established in legislation. While compulsory binding arbitration is rejected as a measure which would remove responsibility from the negotiating parties, procedures for mediation and conciliation by a neutral third-party within specified time constraints have been suggested. If a mediation settlement cannot be reached, the system would allow for voluntary binding arbitration or for the calling of a strike vote within the local concerned. To obviate the disadvantages of an inflexible time schedule for negotiations, conciliation and arbitration, several associations have recommended the creation of joint committees for continuing discussions as a supplement to formal negotiations. Bargaining would then be concerned only with salaries and issues which could
not be resolved through discussion.

The approach suggested by the OSTC differs from that of the associations in regard to the strike. Subsequent to unsuccessful mediation, a fact-finding committee would be appointed to investigate the dispute and to formulate recommendations. If this investigation cannot produce agreement, the issues would be referred to the Minister of Education for action at his discretion. Such a procedure would, in effect, place the final decision within management's jurisdiction and, therefore, would negate the function of collective bargaining.

The use of fact-finding is viewed as a means of obtaining an objective assessment of the demands of both parties, and of influencing each side to re-evaluate its position. Publication of the fact-finding report is also intended to bring public pressure to bear for the resolution of the dispute. The efficacy of fact-finding is, however, doubtful. Mediation and conciliation completed prior to fact-finding would have involved an investigation of the dispute and fact-finding is really only mediation with a written report and recommendations. Public awareness would have been stimulated by previous publicity concerning the progress of negotiations. Extensive fact-finding, requiring a lengthy period for completion, may cause undue delay in the achievement of a settlement. A further disadvantage to fact-finding rests in its inapplicability to the settlement of disputes over participation in decisions relating to professional working conditions.

The OSTC's opposition to the granting of the strike right loses much of its force when it is remembered that the Minister of Education has the right to make temporary appointments to teaching positions regardless of the appointees' qualifications. A strike could, therefore, cause disruption within the educational system but would not necessarily involve a cessation
of classes. With the alleviation of the teacher shortage, the availability of substitute teachers would not constitute a problem. Teachers' dependence on public support, their concern for professional status and the economic loss involved in a strike will also combine to ensure discretion in the use of the strike weapon.

**Legislation**

As noted above, several legislative alternatives are available for the regulation of teacher-board relationships. The essential requirement of any enactment is the provision of a framework and procedures which will define the rights of the parties, will encourage settlements through negotiation rather than through sanctions and, in the event of insoluble disputes, will provide dispute mechanisms which minimize service disruptions. These conditions could be met by including teachers under the Ontario Labour Relations Act, a public employment act, a professional negotiations act or a statute specifically designed for teachers. However, enactment in any of these forms would necessitate a plethora of amendments for matters such as the definition of the employer, the scope of negotiations and the nature of the bargaining unit or, as new legislation, would require special clauses for application to teachers. Use of these statutes would also create the need for amendments to several current statutes which apply to the educational system. Confusion rather than procedural clarity would be the end result.

For the achievement of consistency, consolidation in educational regulations and comprehensibility to the participants, the inclusion of negotiation procedures within the present educational legislation is necessary. Amendment of existing statutes is, however, useful only as an interim measure.
In order to consolidate all aspects of the teacher-board, teacher-government and board-government relationships, a comprehensive review and integration of the statutes is essential.

Given the present status of Ontario's educational system and the contemporary industrial relations environment, and considering the evolution of collective negotiations among teachers, the following measures could be effective in the mitigation of recent problems:

1. Legislation which integrates all regulations pertaining to the educational system and the personnel of whom it is composed.

2. The definition of the provincial government as the employer and the creation of a system of province-wide bargaining in which government officials would have an active participation. A provincial salary schedule with cost of living adjustments as required would replace the present locally determined schedules.

3. The use of supplementary local agreements with the status of legal documents to provide for conditions which cannot be determined at the provincial level.

4. The establishment of a province-wide bargaining schedule with definite negotiation initiation and termination dates.

5. The integration of elementary and secondary school negotiations.

6. The creation of voluntary employee organizations, separate from the professional associations, to be concerned solely with the economic welfare of their memberships.

7. The introduction of separate bargaining units for school administrators (principals, department heads) and the inclusion of paraprofessionals in the teaching units.

8. Broadening of the scope of negotiations to include working condi-
tions and professional rights which are not predetermed by legislation.

9. The introduction of formalized conciliation procedures which may culminate in voluntary arbitration or the strike as determined by a vote of the membership.

10. The designation of the provincial labour relations board as the body responsible for the administration of negotiation provisions.

Conclusion

Analysis of the teacher-board negotiation environment demonstrates the need for formalization. The outlined suggestions would provide standards defining the rights and obligations of teachers and boards and would introduce definite procedures for the conduct of negotiations and the resolution of disputes. The question remains whether collective bargaining is to be used primarily as a means to improve the economic position of teachers or whether it can become an instrument to effect changes which will stimulate the intellectual development of the student.

The behaviour of parties and the degree of co-operation brought to the bargaining table will ultimately determine whether collective negotiations are an asset or a liability in the continual effort to improve the quality of education in Ontario.
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