The industrial relations relationship between the Treasury Board and the Public Service Alliance of Canada in the operational category.

Alexander Gray. Gillespie

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THE INDUSTRIAL RELATIONSHIP BETWEEN
THE TREASURY BOARD AND THE PUBLIC SERVICE
ALLIANCE OF CANADA IN THE OPERATIONAL CATEGORY

A thesis submitted to the Faculty of
Graduate Studies through the
Department of Economics in partial
fulfillment of the requirements for
the Master of Arts degree at the
University of Windsor.

By

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B.A., Brock University, 1971

Windsor, Ontario, Canada. June, 1974
ABSTRACT

The purpose of this study was to describe the industrial relations relationship as it existed between the Treasury Board and the Public Service Alliance of Canada in the Operational Category after three rounds of collective bargaining. Attention was concentrated on the members of the Public Service Alliance of Canada employed in the Operational Category because of the cohesive inter-relatedness of these blue-collar occupational groups. With the passage of the Public Service Staff Relations Act (R.S.C. 1970- c. 72) in March, 1967, collective bargaining rights were extended to almost all federal employees. The Act established the Public Service Staff Relations Board as a neutral agency with responsibility for overseeing the operation of the industrial relations system. The diverse agencies of this neutral jurisdiction have ensured that the dispute settlement procedures of the collective bargaining mechanism function according to the legislative framework. The Act vested with Treasury Board the responsibility for acting as the employer in the industrial relations system. As well, the Act provided a legislated procedure for certification of employee organizations which enabled the Public Service Alliance of Canada to function as the bargaining agent in the industrial relations system. Accordingly, the peculiar nature of the employer-employee
relationship between the Treasury Board and the Public Service Alliance of Canada in the Operational Category is a direct consequence of the industrial relations system created by the Public Service Staff Relations Act.
PREFACE

The author wishes to acknowledge his particular gratitude to Dr. A.E. Kovacs, the Chairwoman of his thesis committee, for her patient guidance and constant support throughout the completion of this project. The contributions of Dr. P.A. Della Valle and Dr. C.L. Brown-John are also gratefully acknowledged. Particular thanks are due to Russell Steward, Assistant Secretary of Staff Relations, Treasury Board, and Claude A. Edwards, President, Public Service Alliance of Canada, whose cooperation made the present study possible. Special appreciation is due to my father, Alexander Gillespie, and Phil Kirkland for their invaluable aid and particular contributions to my industrial relations thinking. I would also like to express my deepest thanks and gratitude to my wife, Helen, for her typing skill, patience and positive disposition. Finally, I would like to thank Mary Heilbronn.
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CHAPTER I

INTRODUCTION

The Public Service Staff Relations Act (R.S.C. 1970 c. 72) came into force on March 13, 1967, and with its enactment the relationship between employer and employee entered a new era. Prior to 1967, the National Joint Council of the Public Service of Canada constituted the sole formal mechanism for consultation between the Treasury Board and the various employee organizations on the conditions of employment in the civil service of Canada. Thus, the fulfillment of the election promise of the late Right Honourable Lester B. Pearson significantly influenced and altered the course of the employment relationship in the Federal Public Service.

Eighty-seven occupational groups, comprising all employees in the Public Service, for which the Treasury Board is the employer, were specified by the Public Service Commission as being within either the Scientific and Professional, Technical, Administrative and Foreign Service, Administrative Support, or Operational occupational category as specified by section 2 of the Public Service Staff Relations Act for purposes of collective bargaining in the central administration. Of these, some 230,000 employees in 80 bargaining units and represented by 11 certified
bargaining agents negotiate collective agreements with the Treasury Board under the auspices of this Statute. As such, it is clearly an impossible task to treat-in detail the complex industrial relations relationship existing between the employer and each certified bargaining agent within the confines of a single study. Attention, therefore, will be concentrated on a specific group of blue-collar workers, represented by the Public Service Alliance of Canada and employed in the Operational Category. This cohesive group of employees offers an ideal subject for analysis and may, in future, generate a comparison with similarly employed blue-collar workers in the private sector.

When dealing with ambiguous terms, the first duty must be that of definition. "The Industrial Relations Relationship Between The Treasury Board And The Public Service Alliance Of Canada In The Operational Category", requires four such interpretations. The Treasury Board refers to that Federal Department consisting of Treasury Board Secretariat, Personnel Policy Branch, Staff Relations Division, that is, that group of career civil servants responsible for representing the interests of the "government as employer". The Public Service Alliance of Canada refers to the employee organization certified as bargaining agent and representing the interests of the employees in eighteen bargaining units in the Operational Category. The Operational Category refers to the several occupational groups of employees specified by the
Public Service Commission as having occupationally-related employment duties. Finally, industrial relations relationship refers to a broad spectrum of relationships within the employer organization, and the employee organization; and between employer and bargaining agent, employer and government, bargaining agent and government, employer and neutral offices, bargaining agent and neutral offices, as they function within the provisions of the Public Service Staff Relations Act.

The objective of this thesis is to describe the industrial relations relationship as it exists between the Treasury Board and Public Service Alliance of Canada in the Operational Category. In addition, it will be demonstrated that the peculiar nature of the employer-employee relationship between the Treasury Board and the Public Service Alliance of Canada in the Operational Category is a direct consequence of the industrial relations system created by the provisions of the Public Service Staff Relations Act.
CHAPTER II

THE FIRST SIXTY YEARS

A formal collective bargaining mechanism has been in existence in the public service of Canada since 1967. To fully appreciate the significance of this milestone achievement in employer-employee relations in the public sector, the period dating from 1907 to 1967 must be briefly examined, for it was a time of transition and development in federal personnel administration and employee relations.

Historical Overview: 1907-1963

In the early 1900s, nepotism and patronage pervaded the operation of the civil service. However, in 1907, public pressure led to the establishment of a Royal Commission on the Civil Service to examine various aspects of public administration. It was to this Commission that the newly formed Civil Service Union presented a brief advocating reform of the civil service and promotion by merit. The outcome of the Commission’s Report led to the authorization of a permanent Civil Service Commission, an organization to provide employment in the federal service.

The Civil Service Union was organized in 1907; in 1909, it became the Civil Service Federation, and in 1966, was one of the two associations which united to form the Public Service Alliance of Canada.
based on the merit principle. However, without a mechanism for the implementation of its programs, the Commission's activities were ineffectual and past practice prevailed.

A change in government in 1917 fostered extensive changes in public employment. The Civil Service Act was completely overhauled to provide the Civil Service Commission with extensive powers over appointment, promotion, and recommendations on rates of pay. These alterations in the conditions of public service employment provided an environment conducive to the activities of employee organizations. Although given no opportunity to act as bargaining agents, they were able to operate, to a certain extent, as representatives of the employees.

Throughout the next decade, the staff associations pressed for a medium of consultation similar to the British Whitley Councils. Finally, in 1930, an Order-in-Council was issued authorizing the establishment of a National Civil Service Council. However, a change of government occurred in the following year, and the Order was never promulgated.

The Depression years reduced the pressure from the staff associations for reform of the employment relationship. With the outbreak of World War II, the size of the civil service increased, and the associations again were able to function as pressure groups through recommendations and petitions to Cabinet
Ministers, House Committees, and the Civil Service Commission.

The promulgation of Order-in-Council P.C. 1003, in February, 1944 was indicative of Government's willingness to legally recognize trade unions and collective bargaining in the private sector. With the promulgation of this Order-in-Council, the Federal Government would have been hard-pressed to ignore the organizational attempts of its own employees. Thus, in May 1944, Order-in-Council P.C. 3676 established the National Joint Council of the Public Service of Canada, a mechanism for employer-employee consultation modelled along the lines of the British Whitley Council system.

The next major development occurred in 1957, when the Pay Research Bureau was created to provide data on private employment conditions for use by the Civil Service Commission in making its pay recommendations to the Treasury Board. The following year, the Commission proposed that it consider representations from employer and employee representatives before making its pay recommendations to the government. However, Treasury Board remained as the sole determiner of rates of pay, and thus, the Commission's proposal did not provide for true bilateral negotiations.

In 1961, the Government introduced Bill C-71, "An Act Respecting the Civil Service of Canada", constituting the first
major change to this statute since 1918. The issue of paramount
importance which arose from the tabling of this Bill was the
amount of employee participation in the establishment of rates
of pay and other working conditions. Subsequent promulgation of
the amended Civil Service Act gave the staff associations the
right to consult with the Commission and Treasury Board over
wages and fringe benefits. At this time too, the Government
committed itself to a policy of adjusting rates of pay every two
years in a cyclical review. Thus, by clarifying responsibilities
for personnel matters,

This legislation opened the way for staff
associations and organized employees to go
around the Commission and to bargain with
other branches of the government concerning
salaries, wages and benefits. 2

In late 1962, the Royal Commission on Government Organ-
ization, more commonly known as the Glassco Commission, released
a report which was highly critical of the management of the
civil service, especially in the area of personnel administra-
tion. The report was especially critical of the divided control
over civil service personnel between the Treasury Board and the
Civil Service Commission, and accordingly suggested that the locus
of responsibility for personnel management be altered to provide
the system with increased flexibility. The ramifications of
Glassco's recommendations eventually led to a reduced role for
the Civil Service Commission in matters of salary administration.

2 Kenneth O. Warner and Mary L. Hennessy, Public Management
and the Bargaining Table, Public Personnel Association,
while enhancing the jurisdiction of the Treasury Board in the field of personnel administration. Thus, the Report's overall effect was to generate realignment of the jurisdictional boundaries in the field of federal personnel administration.

By early 1963, the staff associations were becoming more restless. The consultation process, provided for in the Civil Service Act of 1961, while satisfying some of the employee organizations' demands for employee involvement in the determination of terms and conditions of employment, only seemed to whet their appetites for conversion of the system into a full collective bargaining mechanism. Prior to the general election of 1963, C. A. Edwards, President of the Civil Service Federation of Canada, wrote to the leaders of all the federal political parties requesting the official position of each on the question of the principle of negotiation and arbitration in the civil service. All were positive in their responses, and the new Liberal minority regime was quick to honour its commitment.

On August 7, 1963, Prime Minister Pearson announced the appointment of a special committee of senior officials to make the necessary preparations for the establishment in the public service of an appropriate form of collective bargaining and arbitration.

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3 Ibid., p. 42.

The Decisive Steps: 1963-1967

The appointment of the Preparatory Committee on Collective Bargaining in the Public Service, under the chairmanship of a well-respected, career civil servant, A. D. P. Heeney, was the first decisive step on the road to a fully operational system of collective bargaining for federal public servants. The task of the Preparatory Committee was to determine the best method of implementing collective bargaining in the public service, and also to consider the changes necessitated by this introduction of the systems of classification and pay. Within this framework, the Committee was to make its report to Cabinet through the Treasury Board.

To fully appreciate the significance of the Heeney Committee's report, presented to Cabinet July 5, 1965, a number of the major recommendations must be re-examined briefly. The Committee recommended that all Federal Government employees, with the exception of the Armed Forces, the Royal Canadian Mounted Police, and a number of other small groups were it is deemed inappropriate, because of the nature of the duties, should have access to a system of collective bargaining. These employees, it was also suggested, should have the right to organize and join a union without fear of employer interference or harassment. The Committee recommended that collective bargaining negotiations between the Employer, Treasury Board for all agencies in the central administration, and bargaining agents, those organizations representing a majority
of employees in a bargaining unit, take place over a well-defined spectrum of occupational groups, which would be consistent with a new system of classification and pay. The Committee proposed that for the central administration, the Public Service Staff Relations Board establish bargaining unit boundaries consistent with the new occupational groups in the Scientific and Professional, Technical, Administrative and Foreign Service, Administrative Support and Operational occupational categories, in order to ensure equitable relativities between occupationall-y-related groups of public servants, and to assist the parties to relate to rates of pay and employment conditions in the Public Service with those prevailing outside during the initial period of collective bargaining. The Committee also recommended the establishment of an independent body to be known as the Public Service Staff Relations Board, with responsibility for the administration and regulation of the collective bargaining system. The proposed method of dispute settlement, in the event of an impasse in negotiations, was to be binding arbitration through the offices of an Arbitration Tribunal, operating under strict legislated terms of reference. The Committee proposed that no limitation be placed on the subject matter to be discussed at the bargaining table; however, arbitral awards were to be limited to rates of pay, hours of work, leave entitlements, and other directly related conditions of employment. Finally, the Committee proposed that all departments and agencies introduce a grievance procedure which would be available to all employees, with provision for third-party adjudication in cases of discipline, or
those matters arising out of the implementation or application of a collective agreement or arbitral award. Thus, the Preparatory Committee, in its report to Cabinet, attempted to make recommendations which would permit an orderly introduction and maintenance of a system of collective bargaining and arbitration for the Public Service of Canada.

On July 21, 1965, slightly more than two weeks after the Committee's Report, the postal workers went on strike. The central issues in this work stoppage were those of wages and archaic working conditions existing in the Post Office Department, a militant protest against the binding arbitration method of dispute settlement proposed by the Heeney Committee. However, the strike served to demonstrate that federal employees were capable of a full scale cessation of work and that such stoppage would not necessarily create a national disaster. In light of these events, the Cabinet Committee, charged with the responsibility for drafting the legislation, altered the recommendation of the Preparatory Committee and, when Bill C-170 was introduced into the House of Commons, it contained its now characteristic two-pronged method of dispute settlement.

Bill C-170, "An Act Respecting Employee Relations in the Public Service of Canada", was tabled along with two companion

pieces of legislation, Bill C-180, "An Act Respecting Employment in the Public Service of Canada", and Bill C-181, "An Act to Amend the Financial Administration Act", on April 25, 1966. Shortly thereafter, a Special Joint Committee of the Senate and the House of Commons on Employer-Employee Relations in the Public Service was established to consider the legislation proposed in Bill C-170.

Working in a non-partisan atmosphere, the Special Committee made many improvements. All its proposed amendments were accepted by the Government. Spokesmen for the Opposition seemed satisfied with the amended Bill which was reported back to the committee of the whole and passed without further amendment. 6

In retrospect, the establishment of a full-fledged collective bargaining mechanism may appear to some as the act of an enlightened employer; however, a more plausible hypothesis would seem to indicate the legislation was the result of sophisticated political pressure from a cohesive group of staff associations. Throughout the first fifty-five years, these organizations lacked the unity so necessary for successful political pressure. With the arrival of the 1960's, the staff associations were able to shuck their white-collar distaste for unionism, successfully exploit the problems faced by unorganized employees in a large bureaucracy, and mobilize their strength in such a way as to have it respected by the Government. Thus, in realizing that in unity lay strength, the staff associations were able to effectively pressure the

6 Armstrong, op. cit., p. 492.
Government into significantly modifying its approach to the employer-employee relationship, a relationship which had existed without considerable alteration for more than half a century.

The legislative trinity was enacted into law and proclaimed in force on March 13, 1967, and

For the first time in the history of the federal government of Canada, the public service was to be divided into two groups, management and employees. 7

7 Warner and Hennessy, op. cit., p. 46.
CHAPTER II

THE LEGISLATIVE TRINITY

The passage of the Financial Administration Act (R.S.C. 1970 c. 116), the Public Service Employment Act (R.S.C. 1970 c. 71), and the Public Service Staff Relations Act (R.S.C. 1970 c. 72) in 1967 created a legislative trinity which provided federal employees with a fully operational collective bargaining mechanism. Each statute contained a number of provisions which were necessary for the establishment of this bargaining mechanism. Thus, a brief review of the major provisions of these Statutes, in relation to the industrial relations system, may serve to indicate the interdependent nature of this legislation.

Financial Administration Act (Amended)

The amended Financial Administration Act severed the Department of Finance and Treasury Board and created in its stead two autonomous government departments. Sections 3 through 7 of the Act consolidated certain matters in Treasury Board which were necessary for its functioning as the "employer" for the central administration. 8

8 The agencies of the central administration, those departments and other portions of the Public Service represented by the Treasury Board in collective bargaining, are enumerated in Schedule I, Part I of the Public Service Staff Relations Act.
Section 3(1) of the Act authorized the present Treasury Board to function as a committee of the Queen's Privy Council for Canada. Under Section 3(2) of the Act, the membership of the committee was to consist of the President of the Treasury Board, the Minister of Finance, and four other members of the Queen's Privy Council for Canada. Thus, Treasury Board was established as a senior committee of Cabinet.

Section 5(1) of the Act confined the jurisdiction of the Treasury Board to matters relating to: general administrative policy in the Public Service; organization of the Public Service; financial management; expenditure plans and programs; personnel management, including the determination of terms and conditions of employment; and any other matters referred to it by the Governor in Council.

Section 5(1)(c) of the Act vested in Treasury Board the responsibility for personnel management in the Public Service. Section 7(1) of the Act authorized Treasury Board to exercise responsibility for personnel management and employer-employee relations in the following areas:

...(a) determine the manpower requirements of the public service and provide for the allocation and effective utilization of manpower resources within the public service;

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10. Ibid., s. 5(1).
(b) determine requirements for the training and development of personnel in the public service and fix the terms on which such training and development may be carried out;

(c) provide for the classification of positions and employees in the public service;

(d) determine and regulate the pay to which persons employed in the public service are entitled for services rendered, the hours of work and leave of such persons and any matters related thereto;

(e) provide for the awards that may be made to persons employed in the public service for outstanding performance of their duties, for other meritorious achievement in relation to those duties and for inventions or practical suggestions for improvements;

(f) establish standards of discipline in the public service and prescribe the financial and other penalties, including suspension and discharge, that may be applied for breaches of discipline or misconduct, and the circumstances and manner in which and the authority by which or whom those penalties may be applied or may be varied or rescinded in whole or in part;

(g) establish and provide for the application of standards governing physical working conditions of, and for the health and safety of, persons employed in the public service;

(h) determine and regulate the payments that may be made to persons employed in the public service by way of reimbursement for travelling or other expenses and by way of allowances in respect of expenses and conditions arising out of their employment; and

(i) provide for such other matters, including terms and conditions of employment not otherwise specifically provided for in this subsection, as the Treasury Board considers necessary for effective personnel management in the public service. 14

11 *Ibid.*, s. 7(1)(a)-(i).
The foregoing sections of the Financial Administration Act clarified, to some extent, the locus of responsibility for personnel management in the Public Service. By consolidating certain responsibilities, previously under the jurisdiction of the Civil Service Commission, Treasury Board's primary role in personnel administration was confined to those matters relating almost directly to the actual operation and functioning of the Public Service. Thus, through full responsibility in the areas of pay and employment conditions, Treasury Board's role as the "employer", for the purposes of collective bargaining, was confirmed by the amendments to this Statute.

Public Service Employment Act

The Public Service Employment Act was enacted to replace the Civil Service Act, which had been in existence since 1961. The Public Service Commission, a replacement for the old Civil Service Commission, was the agency established to administer the provisions of this legislation. Parts I, II, and III of the Act are the principal elements of this statute which affect the industrial relations environment:

Part I:

Sections 3 and 4 of the Act established the administrative entity known as the Public Service Commission, and dealt with its terms of office. Section 5 confined the powers and duties of the
Commission to: the appointment of qualified persons to, or from within, the Public Service; the operation of staff training and development programs; the hiring of Commission personnel; the appointment of boards to render decisions under the various appeal procedures; the reporting of any matters of consequence to the Governor in Council; and the performance of any other duties assigned by the Governor in Council.\textsuperscript{12} Thus, the staffing function rests exclusively with the Commission.

Part II:

Section 8 of the Act vested with the Commission the exclusive authority over appointment in the Public Service. Sections 10 through 12 charged the Commission with responsibility for establishing selection standards which were necessary for the performance of a certain job, and to appoint qualified individuals solely on the basis of merit. Sections 13 through 21 set out a competition mechanism to be followed by the Commission in making appointments to, or from within, the Public Service.\textsuperscript{13} Thus, through well-defined appointment procedures, the Commission was vested with the exclusive responsibility for the preservation of the merit principle.

Part III:

Sections 22 through 27 dealt with tenure of office in the Public Service, appointment of term employees, employee resignation, and the definition of "abandonment of position". Section 28

\textsuperscript{12} Public Service Employment Act, (R.S.C. 1970 c. 71), s. 5.

\textsuperscript{13} Ibid., s. 8-21.
set out the requirement for a probationary period of service for all public servants and the procedure to be followed when an employee was to be "rejected on probation". Section 29 enumerated the lay-off and reappointment procedure which resulted from the lack of work or the discontinuance of a function. Under section 31 provision is made for release or reappointment to a lower position if a person was deemed to be incompetent or incapable of performing the duties of his position. Section 32 set out the employment consequences for public servants as a result of political partisanship. Thus, the Public Service Commission was given extensive authority in the areas of tenure of, and release from, employment in the Public Service. The Public Service Employment Act, and the Public Service Commission, its administering authority, have responsibility for Public Service personnel management in areas which are external to the actual functioning and operation of the system. The major function of the Commission is to provide the Public Service with qualified appointees who are fully capable of performing the duties of a position. Thus, the exclusive concerns of this statute are the staffing of the Public Service and the preservation of the merit principle.

Public Service Staff Relations Act

The Public Service Staff Relations Act came into force on March 17, 1967, providing slightly more than 200,000 public

14 Ibid., s. 22-32.
employees access to a fully operational system of industrial relations. The scope of this system may only be ascertained by drawing together a number of the Act's most relevant provisions.

Application The legislation applies to all members of the Public Service cited in Schedule I of the Act. However, members of the Armed Forces and uniformed members of the Royal Canadian Mounted Police are excluded from the jurisdiction of this legislation. Persons employed in a managerial or confidential capacity are not eligible to participate in the collective bargaining process; however, they have rights under the grievance procedure. The major group of employees in this latter category are the Personnel Administration Officers whose responsibilities include the personnel function for the entire Public Service and the negotiation of collective agreements on behalf of the employer. Therefore, many individuals who would have been excluded from collective bargaining in the private sector are included under the provisions of this statute.


16 The attempt of this discussion is to provide a general overview of the Public Service Staff Relations Act. In succeeding chapters, specific sections of the Act will be related to major discussion topics in an attempt to depict the cohesive inter-relationship that exists between the legislation and the industrial relations system.

17 Some notable examples include supervisory personnel found in bargaining units in the Operational Category, and professional employees from the disciplines of economics, law, and medicine found in bargaining units in the Scientific and Professional Category.
**Basic Rights**  The Act confirms the right of public servants to belong to an employee organization and to participate in its lawful activities. Employees are also protected from harassment and discriminatory actions by management as a result of their union affiliation. Management is also prevented from interfering with the organization or administration of an employee association. Certain management rights are also protected in this Statute. The legislation recognizes the inherent right of management to determine the organization of the Public Service, to group and classify positions, and to assign duties to employees. Thus, the Act legally recognized the rights of both employees and management in the collective bargaining system.

**Administration**  A necessary element of any viable industrial relations legislation is a neutral third party to which either disputant may turn in an attempt to preserve the industrial relations peace. In the federal public sector, this function is served through the offices of the Public Service Staff Relations Board. The Board is tripartite in composition, with the independence of its neutral members ensured by fixed terms of office and a removal procedure which requires the approval of the Governor in Council, House of Commons, and the Senate. The Board has the sole responsibility for the administration of the Public Service Staff Relations Act and its Chairman is vested with the authority to administer the dispute-settlement provisions of the legislation.
Within the administrative jurisdiction of the Public Service Staff Relations Board are found the offices of: the Public Service Arbitration Tribunal, vested with responsibility for administering the system of arbitration; the Grievance Adjudicators, charged with administering the system of grievance adjudication; and the Pay Research Bureau. These functions must be considered as being of major importance in a bargaining relationship where the employer is also the Federal Government.

Collective Bargaining Employee organizations are required to seek Board approval for certification as bargaining agents. Once certified as a bargaining agent, the employee organization has the exclusive right to represent employees in the bargaining unit in the negotiation and administration of collective agreements with the employer.

The legislation requires, where notice to bargain has been given, that the parties are to meet and bargain collectively in good faith, and to make every reasonable effort to reach a collective agreement. However, collective agreements may not contain provisions which would require Parliament to enact or amend legislation, except for appropriation of monies required for the implementation of an agreement.

The major innovation in this legislation is the two-pronged method of dispute settlement which provides for either a
conciliation board and strike or binding arbitration. Prior to the serving of the notice to bargain, the bargaining agent must specify which method is to apply in the case of an impasse in negotiation.

If referral to the Public Service Arbitration Tribunal were selected, the matters in dispute would be the subject of a binding arbitral award rendered by the Tribunal. However, their award may only be concerned with rates of pay, hours of work, leave entitlements, standards of discipline, and other directly-related terms and conditions of employment. The bargaining agent, alternatively, may elect to refer the dispute to a conciliation board. A conciliation board may not be established until the designated employees (employees who are not permitted to strike as their duties are necessary to the safety and security of the public) have been determined. The terms of reference of a conciliation board are more encompassing than those of the Arbitration Tribunal, and the board's non-binding recommendations are reported to the Chairman of the Public Service Staff Relations Board, who, in turn, is responsible for notifying the disputants of their findings. Seven days after the Chairman receives a conciliation board's report, employees may lawfully engage in strike activity. Thus, in providing employees with a choice between binding arbitration or conciliation/strike, the Public Service Staff Relations Act becomes a unique labour relations statute.

Grievance Procedure The grievance procedure in the Federal Public Service is extended by the Act to include all
employees, regardless of whether or not they are represented by a certified bargaining agent. Grievances relating to the interpretation or application of a provision of a collective agreement or arbitral award, or disciplinary action resulting in discharge, suspension or financial penalty may be referred, under the Act, to binding third-party adjudication. However, all other grievances are disposed of by the employer at the final level in the grievance procedure. Thus, the Act contains another element which is unique in the field of labour relations legislation.

The Public Service Staff Relations Act, the Public Service Employment Act, and the Financial Administration Act are the legislative trinity which provided the Federal Public Service with a fully operational industrial relations system. However, the Public Service Staff Relations Act must be considered as the primary element of the trinity, for its sole purpose for existence was to provide for the establishment of a system of collective bargaining and grievance procedure for Public Service employees. The companion Statutes primarily served to identify an employer for the purposes of collective bargaining.

The all-encompassing nature of the Public Service Staff Relations Act has created an "umbrella effect", such that the industrial relations system operates entirely within a legislatively

18 Adjudication is commonly known, in the private sector, as arbitration. In the public sector, arbitration is the method used to resolve interest disputes, while adjudication is the method used to resolve rights' disputes.

19 For most Departments, the final level of the grievance procedure is the Deputy Minister of the Department concerned.
framework. This type of legislation was of the utmost importance to the initial operation of the system considering the fact that there had been no previous experience with collective bargaining, and within a period of less than one year, more than 200,000 public servants were given rights under the new legislation. 20 Thus, the Act ensured that the introduction of collective bargaining on a service-wide basis would be orderly.

The industrial relations system of the Federal Public Service has now been in existence for more than seven years, and the legislative framework, especially the Public Service Staff Relations Act, under which the system operates, has been the subject of praise and criticism from both management and union. Treasury Board considers the Statute to have protected a vital interest, that of ensuring, that as the employer, its operations will always be able to function. However, the Treasury Board considers that, without the statutory authority to lock-out employees in strike situations, it is under a definite disadvantage at the bargaining table. 21

Alternatively, the Public Service Alliance of Canada praises the Act for establishing an operational system of collective bargaining for federal employees. On the other hand, criticism

20 Other elements of this "umbrella effect" will be discussed in succeeding chapters.

21 Interview, December, 1973, Mr. R. Steward, Assistant Secretary, Staff Relations Division, Treasury Board Secretariat.
centres on the narrow scope of collective bargaining which prevents collective agreements from altering any employment conditions which come under the jurisdiction of any other legislation, for example, the Public Service Superannuation Act. 22

Recently, Jacob Finkleman, Chairman of the Public Service Staff Relations Board, was requested by Cabinet to conduct hearings into proposed revisions of the Public Service Staff Relations Act. These hearings represent the second attempt at altering the existing provisions of the original Statute. 23 The purpose of both these Committees was to provide management and union with labour legislation free of the problems which both sides consider to have plagued the system since its inception. Thus, the Act, which took sixty years to achieve, has been the subject of a revisionary procedure twice in its seven years of existence.

The foregoing discussion has served to indicate, in short, that the legislation provides for a bilateral bargaining arrangement, with management represented by the Treasury Board and employees represented by the Public Service Alliance of Canada, one of a number of certified bargaining agents, with the offices of the Public Service Staff Relations Board providing neutral third-party assistance.

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22 Interview, November, 1973, Mr. J. K. Wiley, Vice-President, Public Service Alliance of Canada.

23 The first attempted revision was undertaken by the Bryden Committee in 1971, however, its report was never published.
CHAPTER IV

THE PUBLIC SERVICE STAFF RELATIONS BOARD:
THE NEUTRAL THIRD PARTY

Labour relations boards have been constituent elements of most North American labour statutes since the late 1930's. The Public Service Staff Relations Act is no exception, and the functioning of its labour board has had a considerable influence on the operation of the industrial relations mechanism. In the Federal Public Sector, the Public Service Staff Relations Board is vested with sole responsibility for administering the provisions of the Public Service Staff Relations Act. Figure 1 describes the organizational framework, functional elements, and major area(s) of responsibility within the jurisdiction of the Public Service Staff Relations Board. The Public Service Staff Relations Board must be viewed as a many-faceted organization with each administrative element able to directly affect the industrial relations environment.

The Board

The Board is tripartite in composition, consisting of a neutral Chairman and Vice-Chairman and equal numbers of representa-

24 Hereinafter, reference to the Public Service Staff Relations Board may be considered as the administrative entity. References to the "Board" may be considered as defining the tri-partite labour relations committee.
ORGANIZATION OF THE
PUBLIC SERVICE STAFF RELATIONS BOARD
atives of the interests of the employer and the employees.

The various terms of office as stated in the Act are such that:

All members of the Board are appointed for a fixed term of years; the chairman and vice-chairman have been given what amounts to judicial tenure for a term of ten years, thus assuring their independence of government, i.e. management, influence. 25

Sections 11 through 20 of the Public Service Staff Relations Act, 26 while setting out the aforementioned periods of appointment and equality of representation, also state that no person who holds office or employment under either the employer or an employee organization that is a bargaining agent, is eligible to hold a Board office. Also, salaries of Board members are fixed by the Governor General in Council. Thus, the aforementioned provisions of the Act have ensured that the Board is physically independent of Government with its two prominent members holding positions of neutrality.

The Board is vested with substantial authority in the operation of the industrial relations system. A cursory review of the legislation indicates that the Board is mentioned numerous times as the neutral third-party agency. However, the Board’s

25 See unpublished address (Tel Aviv, 1972) by Jacob Finkleman, "Finality in Public Sector Bargaining - The Canadian Experience," p. 5.

26 The Public Service Staff Relations Act will hereinafter be referred to as "the Act" unless otherwise specified.
major functions centre on the areas of certification, designations, complaints, questions of law, strike declarations, prosecution, and regulation.

The certification procedure is set out by the Act in sections 27 through 48. Since the legislation did not provide for the according of rights to an employee organization through voluntary recognition, the Board was given extensive power in the area of certification. The Board is empowered to receive applications for certification from an employee organization or a council of employee organizations. Upon receipt of an application, the Board, through an examination of the employees' duties and classification, is to determine whether the group of employees constitutes a bargaining unit appropriate for collective bargaining. The Board is then empowered to satisfy itself that a majority of the employees in the bargaining unit wish to be represented by the employee organization making application. This procedure is completed by the Board's certification of the employee organization as bargaining

Section 26 deals with the initial certification period, and the commencement of collective bargaining. All activities during this period were subject to the time frame set out in Schedule II. During this period, the Board was required to specify when application for certification was to be made, and was limited by s. 26(4) in its determination of bargaining units. This section no longer has application for current certification proceedings.

The Public Service Alliance of Canada is an employee organization.
agent for employees in the bargaining unit, and the recording of the process for the resolution of disputes as specified by the bargaining agent. 29 By the end of the 1968-69 fiscal year alone, the Board had received 131 applications for certification, of which 44 applications, covering 183,000 employees, were accepted and a bargaining agent certified. 30 Thus, through extensive authority over the certification procedure, the Board is able to regulate, to a certain degree, the attempts of employee associations in becoming certified bargaining agents.

The Board does not have extensive authority in the area of collective bargaining. However, prior to the establishment of a conciliation board, resulting from an impasse in negotiations, the Board, under section 79 of the Act, is required to determine those employees whose duties are necessary in the interest of the safety and security of the public (designated employees). This determination will have a substantial effect on the ability of employees to carry out an effective strike as the designated employees are required, under section 101 of the Act, to remain on

29 The Board has extensive authority in the area of revocation of certification, however, this problem has not arisen for any bargaining units in the Operational Category, where the Public Service Alliance of Canada has been certified as bargaining agent.

30 Public Service Staff Relations Board, Second Annual Report: 1968-69, Queen's Printer, Ottawa, 1969, p. 18.
the job during any cessation of work. Thus, in effect, the Board is required to protect the public interest in situations where employees may eventually withdraw their services to substantiate demands made at the bargaining table.

The Board is also empowered to act in a regulatory capacity. Section 18 of the Act vested the Board with the power to make regulations on a variety of matters within the scope of collective bargaining. This resulted in the Board publishing the Public Service Staff Relations Board Rules and Regulations of Procedure, which covers those matters delegated under section 18 of the Act. Under section 20, the Board hears complaints and makes orders directing compliance if the employer or an employee organization has failed: to observe any prohibition stated in the Act; to give effect to a provision of an arbitral award or adjudication decision; or, to comply with a regulation respecting grievances. 31

Under section 23, the Board is required to hear and determine whether or not an Adjudicator or Arbitrator has erred with respect to any question of law or jurisdiction in the making of the adjudication decision or arbitral award. With reference to the foregoing, the Board has heard 103 references under section 20, and 50 references under section 23 to January 1, 1974. 32 The Board is also empowered under section 103, to make declarations on the lawfulness of

31 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 20.
32 See unpublished list (Ottawa, 1974) by Treasury Board, "Index of Decisions."
of strikes, and under section 106 must consent to the prosecution of any person for failing to observe any prohibition, or for the continuation of an illegal strike. Thus, the Act provides the Board with two regulatory mechanisms whereby decisions of the various third-party services within its administrative jurisdiction may be re-examined.

The foregoing discussion indicates that the primary function of the Board is to regulate the operation of the collective bargaining mechanism. The Board, however, is not empowered to initiate actions at its own discretion, but must react solely on the request of either party to collective bargaining. This has enabled the collective bargaining system to function effectively while ensuring that the public interest will be protected.

Chairman of the Public Service Staff Relations Board

The Chairman of the Public Service Staff Relations Board has the authority to administer the dispute settlement provisions of the legislation. In this regard, his responsibilities include: the appointment of conciliators and mediators; the establishment of a conciliation board; the selection of panel members for the Arbitration Tribunal; and the referral of matters in dispute to the Arbitration Tribunal or conciliation board.
Conciliators may be appointed only by the Chairman upon written request by either party. Although not specifically provided for in the legislation, a mediator may be appointed by the Chairman, however, he has no authority to impose the services of a mediator on the parties. The role of federal public sector conciliators and mediators is primarily the same as in the private sector, that being, to confer with the parties and endeavour to assist them in reaching agreement. The only major difference between the two is that, in the federal employment sector, the method of appointment differs.

The conciliation board method of dispute resolution is found in sections 78 through 89 of the Act. The Chairman has sole responsibility for determining whether or not the establishment of a conciliation board will assist the parties in reaching an agreement. The Chairman is also required to determine the conciliation board's terms of reference and to receive its recommendations if it has not been successful in assisting the parties to reach an agreement. Finally, the Chairman must notify the parties of the board's recommendations and publish the report if he deems it necessary.

The current Chairman is Jacob Finkleman, a well-respected and prominent member of the labour relations community. His positive disposition toward the use of neutral services and previous

33 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 52.
experience as Chairman of the Ontario Labour Relations Board has enabled him to react most assiduously to the needs of the parties in the dispute. Through constant contact with the bargaining agents and the employer in the crucial stages of negotiations, he has been able to smooth the way for necessary third-party assistance. Thus, the Chairman, as a pre-eminent member of the neutral agency, has endeavoured to provide the parties with assistance which will enable them to reach a collective agreement without resorting to a cessation of work.

**Arbitration Tribunal**

The Public Service Arbitration Tribunal provides public employees with a method for resolving their dispute with their employer without resorting to a work stoppage. If employees in the bargaining unit have chosen this method of dispute settlement, sections 63 through 75 of the Act applies to them in a binding fashion.

The Arbitration Tribunal is a tripartite body composed of the chairman who is responsible for the administration of the system of arbitration, and two panels of members who represent the interests of the employer or employees respectively. Once the dispute is referred to arbitration, the Chairman of the Board selects a member from each panel and, along with the chairman of the Arbitration Tribunal, they constitute the Tribunal required
by the Act to render a binding arbitral award on the matters in dispute which have been referred to them. However, if at any time prior to the rendering of the award, the parties reach agreement on the matters in dispute, the Arbitration Tribunal is not to render its award on any matter to which they have agreed upon. 34

The Arbitration Tribunal is limited to specific matters on which it may render an arbitral award. The notice of request for arbitration must contain the terms and conditions of employment to which the parties request arbitration, as well as any matters already agreed upon in the course of bargaining and incorporated in a partial collective agreement. Furthermore, the award may deal only,

...with rates of pay, hours of work, leave entitlements, standards of discipline and conditions of employment related thereto. 35

The Tribunal is prohibited from making an award in respect of,

...standards, procedures or processes governing the appointment, appraisal, promotion, demotion, transfer, lay-off or release of employees, or with any term or condition of employment of employees that was not a subject of negotiation between the parties during the period before arbitration was requested in respect thereof. 36

The foregoing terms of reference are also augmented by another section of the Act which established guidelines to be

34 Ibid., s. 60-64.
35 Ibid., s. 70(1).
36 Ibid., s. 70(3).
considered by the Arbitration Tribunal in rendering an award.

Section 68 of the Act states that,

In the conduct of proceedings before it and in rendering an arbitral award in respect of a matter in dispute the Arbitration Tribunal shall consider

(a) the needs of the Public Service for qualified employees;

(b) the conditions of employment in similar occupations outside the Public Service, including such geographic, industrial or other variations as the Arbitration Tribunal may consider relevant;

(c) the need to establish terms and conditions of employment that are fair and reasonable in relation to the qualifications required, the work performed, the responsibility assumed and the nature of the services rendered; and

(d) any other factor that to it appears to be relevant to the matter in dispute. 37

The foregoing provisions may seem to place a considerable degree of restraint on the activities of the Arbitration Tribunal. However, considering that, when the Act was first implemented, the arbitral function was carried out in a complete vacuum, the necessity for detailed direction in the area of pay determination and working conditions becomes readily apparent.

The Arbitration Tribunal must be considered as an essential element of the collective bargaining mechanism. First, it provides employees with a method of settling their dispute

37 Ibid., s. 68.
without recourse to a work stoppage; and second, it provides employees in bargaining units, whose economic power at the bargaining table is weak due to functions which lack public prominence, with a fairer method for determining pay and employment conditions, since, without the Tribunal, the employer would almost be able to unilaterally determine wages and fringe benefits. Thus, the Arbitration Tribunal provides another constructive agency for assisting the parties in the resolution of their collective bargaining disputes.

Chief Adjudicator

The right to present grievances and the right to refer such grievances to adjudication are prescribed by sections 90 through 99 of the Act. Under the scheme provided, section 90 enables an employee who considers himself to be aggrieved, as a result of any matter affecting his terms and conditions of employment, to present a grievance through all levels of the departmental grievance procedure, except where other administrative procedures for redress are provided in, or under another Act of Parliament. This right had led public servants to grieve against their employment conditions on approximately 28,000 occasions since the provisions of the Act were implemented in 1967. 38 However, under such a formalized grievance procedure, it is to be expected that a large number of real or fancied grievances are likely to arise.

Not all grievances may be referred by employees to adjudication under section 91 of the Act. Only those grievances which involve either the interpretation or application of a collective agreement or arbitral award, or disciplinary action resulting in discharge, suspension or financial penalty are adjudicable. The former references must also have the approval of the employee's bargaining agent, however, this is not necessary for disciplinary references. Public servants have, from 1967 to January, 1974, referred over 1,000 grievances to adjudication. The marked reduction between the number of grievances and the number of references to adjudication may be indicative of a system which is efficiently conducted by employers and bargaining agents, thus, leaving only the most difficult or doubtful cases for binding third-party determination.

The Chief Adjudicator is responsible for the administration of the adjudication mechanism. On receipt of a reference to adjudication, the Chief Adjudicator is responsible for selecting the adjudicator to hear the case. The adjudicator then hears arguments presented by representatives of the grievor (employee) and the employer and the decision rendered is final and binding on both parties. In practice, although all adjudicators are on equal footing, the decisions rendered by the Chief Adjudicator have, over the last few years, tended to be the most precedent-setting, in

39 See unpublished index (Ottawa, 1974) by Treasury Board, "Index of Adjudication Decisions."
terms of the jurisprudence surrounding adjudication decisions. 40

The foregoing grievances are, what are generally considered in the private sector as "rights" disputes. Another category of grievances found under section 98 of the Act may be referred to as "policy" grievances, and involve matters which may not be the subject of an individual employee grievance. This scheme allows either the employer or the bargaining agent, when seeking to enforce an obligation that is alleged to have arisen out of a collective agreement or arbitral award, to refer the dispute to the Chief Adjudicator for hearing and decision. As of January, 1974, 47 such grievances had been referred to the Chief Adjudicator for determination. 41

The foregoing indicates that the federal public sector's approach to the grievances of its employees may be considered a unique contribution to the field of enlightened labour relations legislation. The statute has precisely enumerated the rights of both employees and bargaining agents. The basic grievance procedure was made available to all public servants in all federal departments and agencies. Finally, the legislation provides for a scheme of independent grievance adjudication which is uniform throughout the entire public service.


41 See unpublished list (Ottawa, 1974) by Treasury Board, "Index of Decisions."
Pay Research Bureau

The Pay Research Bureau, since March, 1967, has operated within the administrative jurisdiction of the Chairman of the Public Service Staff Relations Board. Although not specifically mentioned as being under the jurisdiction of the Board, the Board has provided for the Bureau's operation in its budgetary estimates, and the Chairman has conferred terms of reference on the Bureau which define its role and responsibilities.

The primary function of the Pay Research Bureau is,

...to obtain information on rates of pay, employee earnings, conditions of employment and related practices prevailing both inside and outside the Public Service to meet the needs of the parties to bargaining, or in the case of occupational groups where no bargaining agent is certified, as may be requested by the employer. 42

The data compiled is made available by the Bureau to both the employer and certified bargaining agents.

The Bureau, in its role as a neutral agency, must be objective in its operation, and it has been able to maintain this stance for a number of reasons. The Bureau provides, as outlined by its terms of reference, information which is factual, impartial, and objective. The Bureau does not participate in either the

negotiation of collective agreements or the setting of rates of pay for public employees. Finally, being under the administrative jurisdiction of the Board has enabled it to maintain its impartiality and conduct its operations in an atmosphere of independence.

The Bureau also attempts to remain responsive to the needs of both the employer and bargaining agent in collective bargaining. Through the Advisory Committee on Pay Research, which is comprised of representatives of the Treasury Board, separate employers, and all certified bargaining agents, the Bureau consults and receives advice "in determining programs, in setting priorities and in deciding on the information to be sought." 43

The Public Service Staff Relations Act does not require the parties to collective bargaining to utilize the Pay Research Bureau data in the making of demands, arguments, or in the process of negotiation. However, both the Treasury Board and the Public Service Alliance of Canada make extensive use of Pay Research Bureau Data in their negotiations in the Operational Category. The use of unbiased data has enabled the parties to begin bargaining from a common base and, in cases where third-party intervention was necessary, may have led to a speedier resolution of the dispute. Thus,

The creation of a single independent organization providing impartial information to both parties at the bargaining table is

43 Public Service Staff Relations Board, Fourth Annual Report: 1970-71, Queen's Printer, Ottawa; 1971, p. 96.
unusual and perhaps unique in North American industrial relations. 44

The foregoing discussion suggests that the neutral agency, known as the Public Service Staff Relations Board, has an extensive jurisdiction within the confines of the collective bargaining system. The agencies of this organization are available to provide assistance to the parties in all matters except for the direct bilateral (at the table) negotiation of collective agreements. This type of neutral third-party assistance is essential to the operation of the federal industrial relations system as the public interest is protected without a substantial deterioration in the free collective bargaining mechanism.

The diversified offices of this neutral agency constitute an administrative jurisdiction, the scope of which is unique to the federal industrial relations environment. In part, this centralization of authority is made necessary by a system where the Government is also the "employer", and as such, existing neutral agencies such as those within the Department of Labour no longer could be considered as neutral for the purposes of dispute resolution. Whatever the rationale for centralization, the provision for third-party adjudication of grievances, the Pay Research Bureau data system or the quasi-judicial operation of the Arbitration Tribunal functioning within a single administration is a feature that is unique to the collective bargaining system in the Federal Public Service.

In recent years, the image of the Public Service Staff Relations Board has become somewhat tarnished. Time delays, often of more than one-half-year in length, especially in the rendering of arbitral awards and adjudication decisions, give rise to the question of whether or not true labour relations justice is being served. The tenure of office, so important for the preservation of independence, while providing an opportunity to become familiar with the particular bargaining system, may have resulted in a normativeness which has permeated decisions and reduced the confidence of the employer or the bargaining agent in relation to neutral third-party assistance. The neutrals have also been required to render decisions on items which should have been determined solely by the parties at the negotiating table, such as zone rates of pay, which require expert knowledge and time to understand. Often, waiting for decisions to be rendered by the neutral agency, especially arbitral awards, has resulted in stalling at the table for other groups in the particular Occupational Category in anticipation of a favourable pattern-setting award. The blame for this somewhat tarnished image may be placed at the collective feet of the Treasury Board, the Public Service Alliance of Canada, and the Public Service Staff Relations Board, as each element of the system fully understands the rationale causing the time delays.

The balance sheet would not be complete without reference to the major advantages of this neutral agency. The centralization
of all neutral functions within one administrative jurisdiction enables the Public Service Staff Relations Board to react quickly and positively to the needs of the parties, should they request third-party assistance. In a bargaining environment which is as political as it is industrial, the offices of this neutral agency provide either or both of the disputants with a "face-saving" mechanism which enables them to abdicate their responsibility for the settlement of an unresolvable dispute. Thus, the primary concern of the neutral agency in the federal public system is the prevention of industrial relations holocausts in a system where it is essential that the public interest be properly protected.

The offices of the Public Service Staff Relations Board were originally legislated as independent of Government influence. The agency itself has also endeavoured to maintain a neutrality of character so necessary to the maintenance of its credibility. Thus, the assistance provided by the offices of the Public Service Staff Relations Board, the neutral third-party, must be considered essential to the viable operation of the federal industrial relations system.

45 This is particularly important in situations where there could be no resolution of the dispute as employee expectations far outweigh employer offers which may be limited by a Government pledge to wage guidelines.
CHAPTER V

TREASURY BOARD: THE "EMPLOYER"

Treasury Board became an autonomous government department on October 1, 1966. This requirement for autonomy resulted from the impending introduction of collective bargaining into the Public Service in March, 1967, and the need to define an "employer" for the purposes of collective bargaining. The result was the creation of Treasury Board Secretariat with, among other functions, overall responsibility for personnel management in the Public Service of Canada.

Legislated Authority

Treasury Board authority for personnel management in the Public Service originates in certain provisions of the Financial Administration Act and the Public Service Staff Relations Act. Under sections 5 and 7 of the Financial Administration Act, Treasury Board is recognized as having responsibility for personnel management in the Public Service. Section 2 of the Public Service Act

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47 See above Chapter III for a discussion of Treasury Board's responsibilities, as defined by the Financial Administration Act.
Staff Relations Act states that,

...employer means Her Majesty in right of Canada as represented by,

(a) in the case of any portion of the public service of Canada specified in Part I of Schedule I, the Treasury Board,... 48

Section 7 of this Act also states that,

Nothing in this Act shall be construed to affect the right or authority of the employer to determine the organization of the Public Service and to assign duties to and classify positions therein. 49

The collective effect of these two statutes is to render Treasury Board responsible for personnel policies, regulations, and standards in the areas of: classification and pay; employment conditions; collective bargaining and staff relations; bilingualism; manpower planning; pensions and insurance; and other employee benefits. 50

Organization and Responsibility

The Treasury Board is a senior committee of the Queen's Privy Council for Canada, and its two permanent members are senior Ministers of the Cabinet. Figure 2 depicts the position of Treasury Board in the organizational structure of Cabinet. The Honourable.

48 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 2.
49 Ibid., s. 7.
50 Personal interview, December, 1973, Mr. R. Steward, Assistant Secretary, Staff Relations Division, Treasury Board Secretariat.
FIGURE 2
POSITION OF TREASURY BOARD
IN THE GOVERNMENT STRUCTURE

PARLIAMENT

Queen's Privy Council for Canada

Cabinet

Treasury Board

Minister

Department or Agency

President of the Treasury Board

Treasury Board Secretariat

Treasury Board, unlike other government Departments, is recognized as a legal entity with all policy statements made in the form of a "Treasury Board Minute." The Coordinating Committee on Collective Bargaining, an internal organizational element of Treasury Board, is responsible for staff relations matters, especially the approval of mandates which provide the employer's negotiator with a guideline for settlement of his particular dispute. 52

The Treasury Board Secretariat, as depicted organizationally on the following page, constitutes the operational structure of Treasury Board. Like other government Departments, the staff of the Secretariat consists of career public servants. The Treasury Board Secretariat is composed of four branches: the Personnel Policy Branch, the Program Branch, the Administrative Policy Branch, and the Planning Branch. The Administrative Policy Branch was created to develop policy and ensure application of regulations, guidelines, and systems with regard to the purchase of materials required to carry out programs effectively, i.e., paperwork management. The primary role of the Planning Branch is the improvement of government decision-making processes by providing information on the effectiveness of programs and their operating efficiency. The Program Branch's primary role is to

52 See discussion below, p.59 for complete description of the contents of a mandate.
ORGANIZATION OF THE TREASURY BOARD SECRETARIAT

President of Treasury Board

Secretary of Treasury Board

Program Branch

Personnel Policy Branch

Administrative Policy Branch

Planning Branch

Planning & Coordination Division

Manpower Division

Compensation & Classification Division

Pensions & Insurance Division

Special Projects

Staff Relations Division

Adapted from Treasury Board Secretariat, Treasury Board Secretariat: Functions and Responsibilities, Treasury Board, Ottawa, 1971, p. 11.
review and evaluate Departmental and Agency program proposals insofar as they relate to the allocation of required financial resources. The Personnel Policy Branch is the largest branch within Treasury Board Secretariat. The six Divisions of Personnel Policy Branch are concerned with all personnel policy affecting the Federal Public Service, including the development of policy to obtain the human resources necessary to carry out government programs. Thus, within the organizational structure of government, Treasury Board Secretariat is responsible for the overall coordination and control of the government's administration and expenditures, and may be likened to the head office of a conglomerate enterprise in the private sector.

The Staff Relations Division of the Personnel Policy Branch has primary responsibility for labour relations and collective bargaining in the Federal Public Service. Although section 2 of the Public Service Staff Relations Act defines Treasury Board as the "employer", the Staff Relations Division has responsibility for representing and maintaining the interests of the employer at the bargaining table. This role is exemplified in the Division's continuing objective,

...to develop and apply throughout the Public Service, staff relations policies which will contribute to management improvement and to a closer cooperation between employees, unions and management, leading to increased productivity.

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54 Treasury Board Secretariat, op. cit., pp. 2-7.
55 Ibid., p. 5.
Thus, as the objective implies, the Staff Relations Division is responsible for determining policies designed to promote harmonious relations between the government and its employees, negotiating collective agreements, and administering the terms of agreements which have not been delegated to departments.

Figure 4 sets forth the organizational structure of the Staff Relations Division, as it existed prior to a restructuring in January, 1974. The senior officer of the Division, Russell Steward, a well-respected industrial relations practitioner, is responsible for directing and coordinating the Division's activities within the organizational structure of Treasury Board Secretariat. The Advisory Services Group is primarily concerned with internal Division objectives, special projects, and service-wide policy considerations, and, as such, is not directly involved in negotiation. The Occupational Health and Safety Group are, as the name implies, responsible for policy and standards development in relation to physical working conditions and occupational health and safety. The various Occupational Category Groups, i.e., Operational Category Group, are primarily responsible for: negotiating collective agreements; consulting with various certified bargaining agents; and, providing interpretations and advice to departments on the administration of collective agreements. The Pay and Benefits Analysis Group prepare data on wages and working conditions and provide major input into the determination of the employer's initial pay position. Within the Representation
FIGURE 4
ORGANIZATION OF THE STAFF RELATIONS DIVISION

Advisory Services Group

Occupational Health & Safety Group

Pay & Benefits Analysis Group

Representation & Adjudication Group

Scientific & Professional Category Group

Administrative & Foreign Service Category Group

Administrative Support Category Group

Operational Category Group

Technical Category Group

Assistant Secretary
Staff Relations Division

Grievance-Adjudication Section

Contract Coordination Section

Exclusions & Designations Section

Special Projects

Group Chief

Negotiators

Adapted from Treasury Board Secretariat, Treasury Board Secretariat: Functions And Responsibilities, Treasury Board, Ottawa, 1971, p. 11.
and Adjudication Group, the Contract Coordination Section attempts to ensure continuity of the employer's position through the development of a Negotiators Manual, comparative analysis of collective agreements, and interpretations management. The Exclusion and Designations Section is responsible for the determination of managerial exclusions and designated employees.\footnote{Managerial exclusions are employees who are excluded from bargaining units because of the nature of their duties. Designated employees are defined under section 79 of the Act.} The Grievance-Adjudication Section's major areas of responsibility include preparation of the employer's position with respect to grievances referred to adjudication, and advising and assisting departmental management at preceding stages in the grievance procedure.\footnote{Interview, November, 1973, Treasury Board negotiator.} The negotiators of the Operational Category Group and the officers of the Grievance-Adjudication Section,\footnote{This is true for all Occupational Categories where an adversary collective bargaining relationship exists, however, this paper is concerned only with the blue-collar groups in the Operational Category.} as employer representatives, occupy frontline positions in the collective bargaining system as the negotiation of collective agreements and grievances are the primary areas of concern to the blue-collar employees of the Operational Category, who are represented by the Public Service Alliance of Canada.\footnote{Hereinafter, for the sake of brevity and, unless otherwise specified, 'Treasury Board' or the 'employer' may be construed to mean Treasury Board Secretariat, Personnel Policy Branch, Staff ReTations Division.}
Approach to Collective Bargaining

"Approach to collective bargaining" may be defined as the various preparations undertaken by individual negotiators or negotiating teams to gird themselves for the next round of collective bargaining negotiations. As such, the approach may depend upon, and be affected by, such factors as the appropriate legislation, the particular industrial relations environment, and the individual personality traits of the negotiator. The Treasury Board approach to collective bargaining is very unstructured and depends primarily upon each negotiator's perception of the bargaining environment and his negotiating philosophy. However, the process generally includes: certain pre-negotiation preparations; developing employer demands; and submission of a mandate proposal. Of the three aforementioned activities, the pre-negotiation preparations are most nebulous. Treasury Board does not require the officer to follow any specific guidelines or procedures, thus, leaving the preparation up to each individual negotiator.

Approximately six months prior to the expiry date of the collective agreement, the negotiator would withdraw all registry

61 In contrast, the Public Service Alliance of Canada, in order to remain somewhat responsive to its membership, has a well-structured approach to collective bargaining.

62 The following is the procedure followed by one particular Treasury Board negotiator in preparing for a round of bargaining for a bargaining unit in the Operational Category.
files pertaining to the bargaining unit in order to refamiliarize
himself with the last round of negotiations. A list of various
employer Departments would be prepared and letters sent to each
Departmental Chief of Staff-Relations, requesting comment from
line management on problems encountered in the administration
of the last agreement.63 However, frequently this request was
overlooked and no comments of any substantive value received.64
Finally, the negotiator would check with the officers of the
Grievance-Adjudication Section for information on any precedent-
setting adjudication decisions.

 Approximately two months later, the negotiator would
check into the availability of Pay Research Bureau data, and at
this juncture would find out who his pay analyst was to be, and
request that person to prepare a preliminary study of data from
outside sources, such as Department of Labour data, in order to
ascertain the trend of current private sector wages and employ-
ment benefits. At this time, the negotiator would also begin
his search for prospective members of his bargaining team. Finally,
the negotiator would spend some time planning his bargaining table
strategy.

63 This procedure depends on the diversity of a bargaining unit
throughout the government service. For example, the General
Labour and Trades bargaining unit is spread out over 28
Departments, while the Lightkeepers bargaining unit has
employees in a single Department, the Ministry of Transport.
Generally, for bargaining units represented by the Public
Service Alliance of Canada in the Operational Category, there
is more than one employer Department.

64 Interview, November, 1973, Treasury Board negotiator.
On receipt of the bargaining agent's demands, the negotiator would review the demands and send a copy to each employer Department requesting comment. This latter procedure, as with the first request, usually provided him with little information of value. Finally, the negotiator would organize the bargaining team, with personal preference for line managers rather than staff relations officers. In general, the size of Treasury Board bargaining teams depends on three variables: availability of personnel; the number of employer Departments; and the importance of the dispute. Thus, having followed the foregoing procedure, the negotiator considered himself prepared for the ensuing round of negotiations.

As with the pre-negotiation preparations, Treasury Board does not require any set procedure to be followed in the formulation of employer demands. The Group Chief of each Occupational Category is responsible for determining the major bargaining thrusts in his Category, after taking into account policy boundaries

65 Interview, November, 1973, Treasury Board negotiator.

66 The diversity of the bargaining unit is the crucial determinant in the size of the Treasury Board bargaining team. For example, in the last round of bargaining, the General Services bargaining team had six members, due to the importance of the dispute and the number of employer Departments. Alternatively, the Lightkeepers bargaining team had three members as the dispute involved one Department and approximately 300 employees. Interview, November, 1973, Treasury Board negotiator.
and concessions made in other Categories or bargaining units. Each Group Chief has responsibility for all industrial relations activity in a particular Occupational Group. Each Group Chief has a number of negotiators under him. A major responsibility of this Officer is to ensure continuity of the Employer's position throughout the bargaining units in his Occupational Category.

A new procedure, which may soon be adopted, is the submission to the union of a complete new agreement. Some advantages may be gained as the other side is required to pick out any changes from a complete collective agreement.

Interview, November, 1973, Treasury Board negotiator.
mandate proposal is the most structured. A negotiator's mandate, as approved by either the Coordinating Committee on Collective Bargaining or the Treasury Board, consists of guidelines on wages, fringe benefits, and other substantive contractual proposals, within which the negotiator has complete freedom to settle his particular dispute. Mandate proposals are usually not submitted until a number of negotiating sessions have taken place, thus enabling the negotiator to gain some indication of the range in which a settlement may be possible. The procedure is depicted in the following diagram.

Initially, the negotiator requests his Pay and Benefits analyst to prepare a pay position based on Pay Research Bureau data and statistics available from other sources. This information enables the negotiator to determine what the average rate of pay and other conditions of settlement have recently been for similar trades in jurisdictions outside the federal public sector. The negotiator reviews data from: other settlements in the Operational Category; arbitral awards for any occupational group in which a precedent might have been set; a pay and benefits analysis of the group's terms and conditions of employment; and other figures, such as cost of living trends. Finally the negotiator analyzes the cost of the union's demands.70

70 Interview, November, 1973, Treasury Board negotiator.
FIGURE 5

PROCEDURE FOR SUBMISSION OF:
A MANDATE PROPOSAL

Treasury Board/Coordinating Committee on Collective Bargaining.

MANDATE SUBMISSION

Deputy Secretary Personnel Policy Branch

MANDATE PROPOSAL

Assistant Secretary Staff Relations Division

REVISED MANDATE PROPOSAL

Group Chief Operational Category

INITIAL MANDATE PROPOSAL

Negotiator

Pay & Benefits Analyst

Data From
Pay Research
Bureau Data

Other Settlements in Operational Category

Important
Adjudication
Decisions

Private Sector
Data

Cost of Living Data

Data on Conditions of Employment
On the basis of his analysis of the aforementioned data, the negotiator prepares the initial mandate proposal. This mandate proposal summarizes and sets out: the costs of the main items in dispute; what the negotiator thinks he can get a settlement for, which does not depend on any data base; and the rationale for the settlement proposal. The initial mandate proposal is then submitted to the Group Chief of the Operational Category where the rationale of the negotiator’s pay proposals and other settlement items are discussed and amended.71

The Group Chief submits the revised mandate to the Assistant Secretary of the Staff Relations Division. Again, the proposals are reviewed and revised, if necessary. The Assistant Secretary, in turn, submits the finalized mandate proposal to the Deputy Secretary of the Personnel Policy Branch, who approves the request on the basis of the Assistant Secretary’s recommendation.72

The Deputy Secretary presents the mandate to either the Treasury Board or an internal committee of the Treasury Board known as the Coordinating Committee on Collective Bargaining. The Ministers of the Treasury Board are primarily concerned with fairness, and sound management and, at this stage, approval of the

71 Interview, November, 1973, Treasury Board negotiator.

72 Interview, December, 1973, Mr. R. Steward, Assistant Secretary, Staff Relations Division, Treasury Board Secretariat.
mandate is usually automatic. The approved mandate is then returned to the Assistant Secretary of the Staff Relations Division, who notifies the Group Chief of the Operational Category who, in turn, notifies the negotiator. Only at this time does the negotiator have complete freedom to settle his dispute within the confines of his mandate. 73

The foregoing procedure may take from one to four weeks to complete. However, negotiations are not delayed while the mandate proposal is being considered, as the negotiator is always able to obtain a provisional mandate, so-called "walking-around money", authorized by the Assistant Secretary for certain specific settlement provisions. 74

Treasury Board and Departments

The Treasury Board was defined by the Public Service Staff Relations Act as the "employer" for purposes of collective bargaining, and was vested with a certain authority for personnel management in the Public Service by the Financial Administration Act. Alternatively, the various government Departments and agencies listed in Schedule I of the Public Service Staff Relations Act are responsible for the administration of collective agreements.

73 Ibid.
74 Interview, November, 1973, Treasury Board negotiator.
and the day-to-day direction of employees. However, Treasury Board and the Departments function as a single management body, thus, they attempt to reflect a common approach to the area of staff relations.

Treasury Board would be ill-advised to attempt to develop personnel management policy in a vacuum, and thus, must necessarily communicate with Departments. Alternatively, Departments must communicate with Treasury Board on matters relating to personnel policy, and problems arising from the administration of collective agreements. However, it is an imperfect process and the lines of communication often may be ill-defined. Departmental representatives have a tendency to covet their jurisdictions and, as such, may be unwilling to accept Treasury Board direction, especially in situations where the Deputy Minister of the Department considers the particular matter to be within his personal authority or mandate. Alternatively, officers of the Treasury Board may often neglect to consult with their Departmental counterparts on matters which, although being within their particular jurisdiction, may have wide-ranging implications in various Departments. This lack of communication between Treasury Board and Departments may cause feelings of alienation on the part of departmental staff relations personnel, thereby creating schisms in the management team.

75 Interview, December, 1973, Mr. R. Steward, Assistant Secretary, Staff Relations Division, Treasury Board Secretariat.
The legislation permits a single staff association to cut across any number of Departments which have employees in a particular bargaining unit. As a result, staff relations practices which are more lenient in one Department may often be used by unions as ammunition in their attempts to gain improvements for their members as a whole. Communication bottlenecks are often responsible for such discontinuities in the management approach to staff relations, thereby enabling employee organizations to make inroads and enhance their relative position outside of the collective bargaining arena.

Treasury Board has a vested interest in the maintenance of a common approach to the administration of collective agreements. The formation of the Inter-Departmental Committee on Staff Relations, composed of Treasury Board officials and senior Departmental personnel administrators, has enabled Treasury Board officials to become more clearly attuned to the needs and input of Departments in personnel policy matters. This type of personnel management interaction, a more suitable alternative to Treasury Board "carrying a big stick" may have reduced, to some extent, the communication bottlenecks inherent in a system where responsibility for personnel management is diversified.

The preceding discussion may have alluded to certain problems which exist in the Staff Relations Division of the Treasury Board Secretariat's operation. However, the following
factors may nurture unforeseen future complications of significant consequence. Negotiators are overworked, and turnover amongst these officers is significant. Furthermore, three of the six Group Chiefs, including the Group Chief of the Operational Category, have been recruited from the private sector where the attitudes toward staff relations differs. Finally, since much of the Division's time is spent in "crisis management", its ability to act on, rather than react to, the development of personnel management policy has been jeopardized.

The foregoing has described the "employer" in the industrial relations system. The passage of the Public Service Staff Relations Act necessitated the formation of a unified management in the Public Service, and Treasury Board was empowered to act as the senior policymaking body. Unity of management was essential to ensure a common approach to the multitude of problems and needs facing the public service as a whole. Thus, for the purposes of collective bargaining, Treasury Board became the "head office management" providing the various employee organizations with the Public Service with a single corporate centre for industrial relations interaction.

76 Staff Relations Division has a primary responsibility for the development of personnel policy affecting staff relations in the Public Service. Since much of the Division's time is spent in reacting to crises, i.e., work stoppages or slowdowns, the opportunity to develop sound personnel policy, i.e., policy which may have averted the work stoppages or slowdowns, is significantly reduced.
CHAPTER VI

PUBLIC SERVICE ALLIANCE OF CANADA:
THE BARGAINING AGENT

The Public Service Alliance of Canada was founded on July 9, 1966, a creature of the joint unification efforts of the Civil Service Association of Canada and the Civil Service Federation, thus merging the interests of two historically divergent staff associations into a single employee organization. The parent organizations had been rivals for many years, however,

With certification of bargaining units as the principal objective, merger was vital. Without merger neither organization could easily achieve the necessary majority membership position to obtain certification for many groups. Once this fact was recognized and accepted, leaders of the two organizations settled their differences and unity was achieved...

Thus, the impending introduction of collective bargaining legislation in the federal employment sector acted as the catalyst to the formation of the Public Service Alliance of Canada.


79 The Public Service Alliance of Canada will hereinafter be referred to as the Alliance unless otherwise specified.
The Alliance has a current membership of approximately 136,000 in federal, provincial, and municipal employment jurisdictions. However, the Alliance's major membership strength is concentrated in the Federal Public Service. The chart on the following page depicts the membership growth of the third largest union, and second largest national union in Canada. However, the pace of membership expansion may be slackening as the majority of eligible federal employees have now been organized. The Alliance represents approximately 48,000 blue-collar workers in the Operational Category, however, a majority of the Alliance's membership is employed in white-collar occupations. Thus, the Alliance may be considered as a predominantly white-collar employee organization representing a minority employed in blue-collar occupations.

80 Interview, November, 1973, Alliance negotiator.
81 Interview, November, 1973, Treasury Board negotiator.
82 The Alliance has been certified as bargaining agent for 41 bargaining units found in each of the five occupational categories. Twenty-three bargaining units are found in white-collar occupations, such as: auditors and teachers in the Scientific and Professional Category; craftsmen, primary products inspectors, and radio operators in the Technical Category; financial services officers, information officers, and commerce officers in the Administrative and Foreign Service Category; and clerks, stenographers, secretaries, typists, and telephone operators in the Administrative Support Category. The eighteen bargaining units represented by the Alliance in the Operational Category embrace such blue-collar occupations as carpenters, plumbers, tradesmen, cleaners, firemen, heating engineers, and lighthousekeepers.
FIGURE 6

MEMBERSHIP GROWTH OF THE
PUBLIC SERVICE ALLIANCE OF CANADA

<table>
<thead>
<tr>
<th>YEAR</th>
<th>MEMBERSHIP</th>
</tr>
</thead>
<tbody>
<tr>
<td>1967</td>
<td>92,000</td>
</tr>
<tr>
<td>1968</td>
<td>98,000</td>
</tr>
<tr>
<td>1969</td>
<td>96,000</td>
</tr>
<tr>
<td>1970</td>
<td>120,000</td>
</tr>
<tr>
<td>1971</td>
<td>121,877</td>
</tr>
<tr>
<td>1972</td>
<td>129,700</td>
</tr>
</tbody>
</table>

83 Department of Labour, Labour Organizations In Canada, Department of Labour, Ottawa, 1968 (p. 23), 1969 (p. 23), 1970 (p. 23), 1971 (p. 28), 1972 (p. 69), 1973 (p. 64).
Legislated Authority

The term "union" may not be found within the ambit of the Public Service Staff Relations Act, an oversight which may be traced to the pre-collective bargaining era when organized civil servants preferred recognition as "staff association". Consequently, the Alliance is recognized under section 2 of the Act as an "employee organization" defined as,

...means any organization of employees the purpose of which include the regulation of relations between the employer and the employees for the purpose of this Act,... 84

Thus, the Alliance is recognized as such an organization within the meaning of the Act. However, recognition as an "employee organization" does not automatically entitle the Alliance to become a "bargaining agent", defined in section 2 of the Act as,

...an employee organization
(a) that has been certified by the Board as bargaining agent for a bargaining unit, and
(b) the certification of which has not been revoked,... 85

The right of the Alliance, as an employee organization, to bargaining agent status may be derived from sections 27 through 40 of the Public Service Staff Relations Act, of which sections 27, 34, and 40 may be considered as being of prime importance. The Alliance was required, under section 27 of the Act, to apply

84 Public Service Staff Relations Act (R.S.C. 1970 c. 72), s. 2.
85 Ibid., s. 2.
to the Board for certification as bargaining agent for any unit of employees it considered appropriate for collective bargaining. The Alliance, between March, 1967 and May, 1969, made such application for certification for eighteen bargaining units in the Operational Category. Under section 34 of the Act, the Board was empowered to certify an employee organization as bargaining agent for a bargaining unit, and as depicted by the diagram on the following page, the Alliance was certified as bargaining agent for the eighteen occupational groups it represents in the Operation Category. For the Alliance, the effect of certification and the rights derived therefrom are described in section 40(1) of the Act, which states that,

Where an employee organization is certified under this Act as the bargaining agent for a bargaining unit,

(a) the employee organization has exclusive right under this Act

(i) to bargain collectively on behalf of employees in the bargaining unit and to bind them by a collective agreement until its certification in respect of the bargaining unit is revoked, and

(ii) to represent, in accordance with this Act, an employee in the presentation or reference to adjudication of a grievance relating to the interpretation or application of a collective agreement or arbitral award applying to the bargaining unit to which the employee belongs;...

86 Ibid., s. 40(1).
FIGURE 7
DATE OF CERTIFICATION FOR BARGAINING UNITS REPRESENTED BY THE
ALLIANCE IN THE OPERATIONAL CATEGORY

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>Date Certified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correctional (Supervisory)</td>
<td>August 2, 1967</td>
</tr>
<tr>
<td>Correctional (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>Firefighters (Supervisory)</td>
<td>August 8, 1967</td>
</tr>
<tr>
<td>Firefighters (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>General Labour &amp; Trades (Supervisory)</td>
<td>August 29, 1967</td>
</tr>
<tr>
<td>General Labour &amp; Trades (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>General Services (Supervisory)</td>
<td>August 2, 1967</td>
</tr>
<tr>
<td>General Services (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>Heating Power &amp; Stationary Plant Operations (Supervisory)</td>
<td>July 12, 1967</td>
</tr>
<tr>
<td>Heating Power &amp; Stationary Plant Operations (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>Hospital Services (Supervisory)</td>
<td>July 12, 1967</td>
</tr>
<tr>
<td>Hospital Services (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>Lightkeepers (Supervisory)</td>
<td>January 10, 1968</td>
</tr>
<tr>
<td>Lightkeepers (Non-Supervisory)</td>
<td></td>
</tr>
<tr>
<td>Railway Mail Clerks</td>
<td>October 18, 1968</td>
</tr>
<tr>
<td>Printing Operations (Supervisory)</td>
<td>May 2, 1969</td>
</tr>
<tr>
<td>Ships' Crews (Supervisory)</td>
<td>July 15, 1968</td>
</tr>
<tr>
<td>Ships' Crews (Non-Supervisory)</td>
<td></td>
</tr>
</tbody>
</table>

87 Adapted from unpublished calendar (Ottawa, 1969) Treasury Board Secretariat, "Treasury Board Secretariat, Staff Relations Division, Bargaining Calendar."
Thus, the right of the Public Service Alliance of Canada to act as a bargaining agent for the employees it represents in the Operational Category flows from the certification provisions provided under the Public Service Staff Relations Act.

Certification as bargaining agent generally enables union organizations to meet a constitutional objective, such as uniting a group of employees for the purpose of protecting their employment interests through collective action. The Alliance, as stated in its constitution was established,

(1) To unite all public employees in a single democratic organization.

(2) To obtain for all public service employees the best standards of compensation and other conditions of employment and to protect the rights and interests of all public service employees. 88

The first objective encompasses all public servants, and thus, does not restrict the Alliance's organizational attempts to a specific group of employees, as is the case with other federal employees. 89 The second objective is achieved most profitably through the collective bargaining process. Thus, certification


89 For example, the Canadian Air Traffic Control Association, representing the Air Traffic Control Group, the IBEW, representing the Electronics Group, or the Professional Institute of the Public Service (PIPS), representing professional employees.
as bargaining agent for various bargaining units has enabled the Alliance to pursue an objective of primary importance to its reasons for existence as an employee organization.

Organization and Responsibility

The structure of the Alliance, as depicted in Figure 8, is based on a centralized organization with component unions organized along Departmental lines. The Alliance Centre is the governing body, functioning as the central administration with power over issues of major concern to the membership at large. 90 The Components perform a subordinate role, having primary responsibility for relations between employee and employer at the worksite. At present, there are fifteen Departmentally-oriented components with the National Component providing service to members in those departments not served by another component. 91 Thus, the Alliance attempts to effectively represent its membership through a dual organizational structure based on a central headquarters and subordinate Component unions.

90 Public Service Alliance of Canada, Constitution, p. 3.
91 Other components include: Agriculture Union; Customs and Excise Union; Department of Veterans' Affairs Component; Economic Security Employees' National Association; Environment Component; Manpower and Immigration Union of the P.S.A.C.; National Health and Welfare Union; Northwest Territories Public Service Association; Public Works Component; Solicitor General Component; Supply and Services Union; Taxation Component; Union of Canadian Transport Employees; Union of National Defence Employees. (Constitution, p. 2-3)
Figure 8
Structure of the Public Service Alliance of Canada

PUBLIC SERVICE ALLIANCE OF CANADA

COMPONENT NATIONAL CONVENTION

COMPONENT HEADQUARTERS

COMPONENT LOCAL

MEMBERSHIP

AREA COUNCILS

92 Adapted from Public Service Alliance of Canada, "Organization of the Public Service Alliance of Canada", Civil Service Review, vol. XL, no. 2, June, 1967, p. 23.
The Alliance is a democratic union attempting to adhere to the demands of a majority of its members, and thus, as depicted by the diagram on the following page, the National Convention constitutes the supreme governing body of the Alliance. However, the National Convention is held triennially and, during the period between conventions, the National Board of Directors acts as the governing body of the Alliance. The National Board of Directors consists of the National President, the two Executive National Vice-Presidents, the two National Vice-Presidents, Presidents of all Component organizations and, one National Director from five designated geographic areas. The Board is charged with responsibility for: carrying out policies established at National Conventions; ensuring Alliance representation in matters concerning the membership as a whole; staffing, wages, and working conditions of full-time appointed officers and staff of the Alliance Centre; employment conditions of full-time elected officers of the Alliance Centre; publications informing the membership of Alliance activities; preparation of business to be presented at the National Convention; the budget; physical space for the Alliance Centre and regulations affecting financial, organizational, and operational matters.93

Thus, the National Board of Directors' primary areas of responsibility and concern center on matters which affect the membership as a whole, maintaining the stature of the Alliance Centre within the internal organizational structure of the union, and internal operational activity.

93 Public Service Alliance of Canada, Constitution, pp. 3-4.
The Executive Management Committee is composed of the National President, the two Executive National Vice-Presidents, the two National Vice-Presidents, the Comptroller, and the Executive Secretary, and their primary responsibility focuses on the daily affairs of the Alliance. As noted in Figure 9, each Vice-President has responsibility for a certain well-defined sphere of jurisdiction. The Comptroller has responsibility for the financial management of the Alliance's affairs, while the Executive Secretary's jurisdiction centres on liaison with the Public Service Staff Relations Board, conducting ratification votes, formal Alliance correspondence with Departments and Agencies, and internal administration.

The four branches under the jurisdiction of the Executive National Vice-President for Organization, Public Relations, and Research are oriented to serving the needs of the Alliance membership. The Research Branch conducts technical and pay research, and coordinates the preparation of Alliance briefs. The Organization Branch has responsibility for membership recruiting and organization, liaison with Area Councils, coordination of steward training, and appeal or grievance representation at the local level. The Appeals, Grievances and Membership Education Branch assists Components in the utilization of the appeal and grievance procedures.

94 Ibid., p. 5.
95 Interview, November 1973, Public Service Alliance of Canada staff officer.
Figure 9

Organization of the Public Service Alliance of Canada

Public Service Alliance of Canada
National Convention

National Board of Directors

Executive Management Committee

President

National Vice-President
Component Affairs

Executive National Vice-President
Administration & Finance

Executive National Vice-President
Organization, Public Relations & Research

National Vice-President
Membership Services

Comptroller

Executive Secretary

Research Branch

Appeals, Grievances & Membership Education Branch

Public Relations Branch

Organization Branch

represents members at grievance hearings before Adjudicators, represents the Alliance before the Public Service Staff Relations Board, and provides for the general and continuing education of the membership. The negotiators' duties, under the direction of the Alliance Executive, entail collective bargaining and negotiations, thus providing a full-time nucleus for Alliance negotiating teams. Thus, the Alliance Centre provides a full range of services to the membership as a whole.

Component organizations represent the second element of the Public Service Alliance of Canada's dual organizational structure. Components play a subordinate role within the organization and, as such, are restricted to matters solely affecting their membership, and consequently, they may not establish any policy or provide any service which falls within the exclusive jurisdiction of the Alliance Centre. The Component is responsible for: processing appeals and grievances up to the final level in the Departmental grievance procedure; administering collective agreements, if the Component has been authorized to do so by the Alliance Centre; representing members in matters which are of sole concern to the Component and the Department; providing liaison between members and the Alliance Centre; holding component conventions and electing officers of the Component; and appointing

97 Interview, November 1973, Public Service Alliance of Canada staff officer.
staff for the Component. Thus, the Component functions in a subordinate capacity within the Alliance organization, however, the Component serves as the primary point of contact between the union member and his union organization.

Approach to Collective Bargaining

The Alliance approach to collective bargaining is well-structured and is based on constitutional and procedural requirements which enable the negotiating team to remain responsive to membership input throughout all phases of the negotiating process. Thus, the Alliance approach to collective bargaining involves: pre-negotiation preparations; responsibility of the bargaining committee; and bargaining table responsibility of the negotiating team.

Initial pre-negotiation preparations fall within the jurisdiction of the Research Branch of the Alliance Centre. The Research Branch compiles and analyzes data from Alliance files, Canadian Labour Congress information services, and the Department of Labour data on current collective agreements. For bargaining units in the Operational Category, information is sought from a wide variety of publications, as well as, other trade unions, i.e., the International Association of Firefighters. The individual member makes his desires known through attendance at a meeting.

98 Public Service Alliance of Canada, Constitution, p. 4.
of his local where membership demands are proposed and voted on. These demands, once approved by the local, are sent to the Component headquarters where they are reviewed to ensure that only one demand is made for each clause in the previous agreement. Finally, the Component sends the demands to the Alliance Research Branch. Once all the input, including Pay Research Bureau data, has been received, the Research Branch analyzes the material and prepares the initial draft contract proposals. These initial proposals are then submitted and reviewed by the Coordinating Committee on Collective Bargaining which is composed of Alliance Executive Officers and Senior Research Officers. 99

The National Board of Directors is responsible for establishing,

...for each bargaining unit a bargaining committee composed of a representative from each Component having members in the bargaining unit plus the members of the Executive Management Committee. 100

The bargaining committee reviews and may revise the contract proposals, and with advice from Senior Research Officers, determines the bargaining demands for the particular bargaining unit.

99 See unpublished address (Ottawa, 1969) by J.F. Maguire, "Development and Experience of Collective Bargaining to Date: A Talk to the Technical Inspection Group," pp. 5-6. Although this procedure is followed in preparing demands, proposals are also made by the Executive. The demands that emerge from the Executive usually carry considerable weight as the Executive is in a better position to identify long-range objectives which will be of benefit to the entire membership. As well, the Executive may propose demands which have been passed by resolution at the National Convention.

100 Public Service Alliance of Canada, Constitution, p. 3.
The demands are prepared in final form and submitted to Treasury Board. 101

The Bargaining committee is also responsible for selecting the members of the negotiating team. The negotiating team is selected from bargaining committee members and is composed of a member of the Executive Management Committee, one Research Officer from the Alliance Centre, and from three to five Executive Secretaries from Components... 102

The size of the negotiating team depends on the size of the bargaining unit, however, the size of the bargaining team may also depend on the importance and complexity of the dispute. 103

The bargaining team, during the negotiating process, refers issues that have been dealt with back to the bargaining committee for ratification. However, staff negotiators have responsibility for attempting to negotiate the collective agreement within a mandate prescribed by an Executive Officer of the Alliance Centre. The Staff negotiator must also consult this Officer when changes or alterations in his mandate become necessary. After all issues have been dealt with at the bargaining

101 Maguire, op. cit., p. 6.
102 Public Service Alliance of Canada, Constitution, p. 3.
103 Maguire, op. cit., pp. 6-7.
table and reviewed by the bargaining committee, the tentative agreement is referred to the membership for final ratification. 104

The foregoing has described the Alliance approach to collective bargaining and is summarized diagrammatically on the following page. The Alliance employs a number of staff negotiators with primary responsibility for negotiating collective agreements and serving as the chief spokesmen for bargaining teams. C.A. Edwards, National President of the Alliance, a highly-respected representative of the labour movement, has stressed the importance of divorcing the negotiator from the union's political process in order: to enable the negotiator to concentrate on bargaining rather than improving his re-election chances; and to protect the negotiator from membership pressure when they consider the negotiator to have made a faulty decision at the table. 105

Thus, the Alliance attempts to remain responsive to the demands of the membership through a well-structured approach to collective bargaining.

Alliance and Components

The Public Service Alliance of Canada, as a certified bargaining agent, is responsible under the provisions of the

104 Interview, November 1973, Mr. C.A. Edwards, President, Public Service Alliance of Canada.

105 Ibid.
FIGURE 10
ALLIANCE APPROACH TO COLLECTIVE BARGAINING
Public Service Staff Relations Act for representing employees in the public service industrial relations system. Alternatively, Component unions maintain day-to-day contact with the membership at the work site. However, the Alliance and the Components must function as a single body in order to remain responsive and retain the loyalty of the membership.

Responsiveness to the needs and wishes of the membership is the primary objective of employee organizations. Since the structure of the Alliance is based on Component organizations, difficulties may be incurred in attempting to respond on a bargaining unit basis and, as well, channels of communication may be ill-defined. The Alliance approach to the solution of the aforementioned difficulties has been to encourage the organization and operation of Area Councils. Area Councils may organize occupational groups and

...are designed to serve as liaison for Locals of Components, enabling them to exchange information and to discuss and to seek solution of problems and to deal from time to time with problems which may be passed to them by the Alliance Centre. 106

According to Mr. Edwards, remaining responsive to members in bargaining units in the Operational Category has not been difficult, as these employees tend to show the greatest interest in their well-being by attending union meetings, making demands, and

106 Public Service Alliance of Canada, Constitution, p. 5.
generally making their voices heard. Thus, the Public Service Alliance of Canada has attempted to defeat the problem faced by many large unions of losing contact with the membership by maintaining two channels of communication which enable the Executive Officers of the Alliance to remain responsive to their membership.

The dual structure of the Public Service Alliance of Canada, as described above, has caused problems and stresses of some consequence within the union organization. The Alliance Centre and Components do not always speak with a unified voice and certain Component unions have expressed a certain amount of dissatisfaction with the services provided by the Alliance Centre. The shared responsibility for representation of employees has led to internal stresses within the organization, such that, some of the stronger Components have begun to demand more autonomy while the weaker Components have pressed for more security.

In future years, the Alliance will be faced with many new challenges in attempting to remain a viable employee organization. In order for the Alliance to maintain its credibility, the heterogeneous objectives of complacent older public servants

107 Interview, November 1973, Mr. C.A. Edwards, President, Public Service Alliance of Canada.

and militant "Young Turks" will have to be reconciled. As well, it will be necessary for the Alliance to obtain continued support for leaders under whose direction the present mandate to act responsibly at the bargaining table will be maintained. Constant vigilance will be necessary in order to prevent the Alliance from falling into the trap of becoming a bureaucratic union in a bureaucratic system. Finally, the Alliance will be faced with a most traumatic choice, that of remaining a traditional non-militant white-collar union or becoming a white-collar union with a militant blue-collar tradition.

The foregoing has described the "union" in the industrial relations system. Under the provisions of the Public Service Staff Relations Act, the Public Service Alliance of Canada was certified as bargaining agent for a number of bargaining units in the Operational Category. Thus, the Alliance became the representative of the interests of these blue-collar workers, providing these employees with a collective voice in their contractual interaction with their employer, the Treasury Board.
CHAPTER VII

THE INDUSTRIAL RELATIONS ENVIRONMENT
OF THE OPERATIONAL CATEGORY

Section 26(1) of the Public Service Staff Relations Act required the Public Service Commission, by March 28, 1907, to...

...specify and define the several occupational groups within each occupational category enumerated in paragraphs (a) to (e) of the definition "occupational category" in section 2, in such a manner as to comprise therein all employees in the Public Service in respect of whom Her Majesty as represented by the Treasury Board is the employer... 109

Accordingly, the Public Service Commission assigned twenty-five blue-collar occupational groups to the Operational Category. The Public Service Alliance of Canada was certified as bargaining agent for eighteen of these occupational groups. 110

The Alliance represents eighteen bargaining units in the Operational Category. However, in this Category the Public Service Staff Relations Board assigned supervisory and non-supervisory employees to different bargaining units. Thus, the Alliance represents supervisory and non-supervisory personnel.

109 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 26(1).

110 The Public Service Staff Relations Board determined that these eighteen occupational groups met the standards of a bargaining unit as defined in section 2 of the Act.
in the Correctional, Firefighters, General Labour and Trades, General Services, Heating Power and Stationary Plant Operations, Hospital Services, Lightkeepers, and Ships' Crews Groups; supervisory personnel in the Printing Operations Group; and all employees in the Railway Mail Clerks Group. 111

The Alliance (Figure 11) currently represents approximately 48,200 employees in 45 Departments and Agencies for which Treasury Board is the "employer". 112 The membership of the various bargaining units is dispersed throughout all geographic regions of the country. Less than one-half of one per cent of these employees have been denied access to collective bargaining through designation by the employer as a "person employed in a managerial or confidential capacity", under section 2 of the Public Service Staff Relations Act. 113 Thus, more than 99 per cent of employees in the Operational Category enjoy collective bargaining rights in the industrial relations system.

111 Hereinafter and unless otherwise specified, reference to the Operational Category may be construed as only those bargaining units represented by the Public Service Alliance of Canada in the Operational Category.

112 Interview, November, 1973, Treasury Board negotiator.

113 See unpublished calendar (Ottawa, 1973) by Treasury Board, "Treasury Board Secretariat, Staff Relations Division, Bargaining Calendar."
MEMBERSHIP IN BARGAINING UNITS REPRESENTED
BY THE ALLIANCE IN THE OPERATIONAL CATEGORY

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>ROUND 1 NS</th>
<th>S**</th>
<th>ROUND 2 NS</th>
<th>S</th>
<th>ROUND 3 NS</th>
<th>S</th>
</tr>
</thead>
<tbody>
<tr>
<td>Correctional (CX)</td>
<td>1781</td>
<td>168</td>
<td>1781</td>
<td>168</td>
<td>1908</td>
<td>229</td>
</tr>
<tr>
<td>Firefighters (FR)</td>
<td>1196</td>
<td>235</td>
<td>1196</td>
<td>239</td>
<td>1239</td>
<td>140</td>
</tr>
<tr>
<td>General Labour &amp; Trades (GL)</td>
<td>19856</td>
<td>1908</td>
<td>19856</td>
<td>1908</td>
<td>16839</td>
<td>1979</td>
</tr>
<tr>
<td>Heating, Power &amp; Stationary Plant Operations (HP)</td>
<td>2334</td>
<td>596</td>
<td>2929</td>
<td>596</td>
<td>2869</td>
<td>626</td>
</tr>
<tr>
<td>General Services (GS)</td>
<td>13272</td>
<td>1133</td>
<td>13272</td>
<td>1133</td>
<td>11420</td>
<td>1457</td>
</tr>
<tr>
<td>Hospital Services (HS)</td>
<td>6090</td>
<td>299</td>
<td>6090</td>
<td>299</td>
<td>5404</td>
<td>281</td>
</tr>
<tr>
<td>Lightkeepers (LT)</td>
<td>410</td>
<td>273</td>
<td>410</td>
<td>273</td>
<td>413</td>
<td>265</td>
</tr>
<tr>
<td>Printing Operations(s) (PR(s))</td>
<td></td>
<td>132</td>
<td></td>
<td>132</td>
<td></td>
<td>161</td>
</tr>
<tr>
<td>Ships Crews (SC)</td>
<td>12342</td>
<td>117</td>
<td>2637</td>
<td>132</td>
<td>2145</td>
<td>507</td>
</tr>
<tr>
<td>Postal Operations.- Railway Mail. Clerks (All Employees) (RM)</td>
<td>300</td>
<td>300</td>
<td>349</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total Supervisory &amp; Non-Supervisory.</td>
<td>47581</td>
<td>4865</td>
<td>48471</td>
<td>4880</td>
<td>42586</td>
<td>5645</td>
</tr>
<tr>
<td>Total Bargaining Unit Population</td>
<td>52446</td>
<td>53351</td>
<td></td>
<td></td>
<td>48237</td>
<td></td>
</tr>
</tbody>
</table>

* - Non-Supervisory
** - Supervisory


115 Hereinafter and unless otherwise specified, diagrams will use the two letter initial for each bargaining unit.
Collective Bargaining

Sections 49 through 53 of the Public Service Staff Relations Act provide for the negotiation of collective agreements. Under section 49(1) of the Act, either the bargaining agent or the employer may serve written notice to commence collective bargaining; while, under section 49(2) of the Act, notice may be given,

(b) where a collective agreement or arbitral award is in force, within the period of two months before the agreement or award ceases to operate. 116

Figure 12 indicates that during the first round of bargaining the Alliance gave notice to bargain at the earliest, 6.4 months and at the latest 17.2 months after notice to bargain was possible. During the second round, this gap was reduced to approximately 55 days for all bargaining units except General Labour and Trades.

In the third round of bargaining, notice to bargain was submitted by the Alliance, for a majority of the bargaining units, on or immediately after the date on which notice to bargain may be given. The reduced elapsed time, as indicated in the foregoing analysis, may be the result of conscious efforts by the Alliance to gear-up their bargaining machinery prior to the termination date of the agreement, thus indicating a desire to re-negotiate agreements prior to their expiry dates.

116 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 49(2)(b).
FIGURE 12
NUMBER OF MONTHS REQUIRED TO NEGOTIATE A
COLLECTIVE AGREEMENT IN THE OPERATIONAL CATEGORY

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>Round 1</th>
<th>Round 2</th>
<th>Round 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Notice to Bargain Possible Received</td>
<td>Receipt of Notice to Bargain - Commencement of Negotiations</td>
<td>Receipt of Notice to Bargain - Signing of Agreement</td>
</tr>
<tr>
<td>CX</td>
<td>6.4</td>
<td>1.5</td>
<td>7.5</td>
</tr>
<tr>
<td>FR</td>
<td>6.4</td>
<td>1.5</td>
<td>7.5</td>
</tr>
<tr>
<td>GL</td>
<td>13.8</td>
<td>0.6</td>
<td>5.1</td>
</tr>
<tr>
<td>GS</td>
<td>13.8</td>
<td>0.6</td>
<td>6.1</td>
</tr>
<tr>
<td>HP</td>
<td>6.4</td>
<td>1.5</td>
<td>7.5</td>
</tr>
<tr>
<td>HS</td>
<td>6.4</td>
<td>1.5</td>
<td>11.4</td>
</tr>
<tr>
<td>LT</td>
<td>11.7</td>
<td>-0.2</td>
<td>5.6</td>
</tr>
<tr>
<td>RM</td>
<td>8.2</td>
<td>0.2</td>
<td>31.6</td>
</tr>
<tr>
<td>PR(s)</td>
<td>15.0</td>
<td>0.9</td>
<td>6.6</td>
</tr>
<tr>
<td>SC</td>
<td>17.2</td>
<td>3.1</td>
<td>8.6</td>
</tr>
</tbody>
</table>

Section 50 of the Act requires that the representatives of the employer and bargaining agent commence negotiations 
without delay, but in any case within twenty days after the notice was given or within such further time as the parties may agree... 118

As indicated by the chart on the preceding page, the parties remained fairly close to the twenty day time limit in rounds one and three bargaining. However, in round two, the parties appeared to have chosen to waive the time limits and, for all but one bargaining unit, delays were longer than ten months. This phenomenon may be attributed to an excessive number of demands raised by the bargaining agent during the second round. Thus, the parties may be considered, for the most part, to be willing to get on with the business of negotiating once notice to bargain has been given.

Figure 12 also shows that negotiations, for bargaining units in the Operational Category, usually continue for protracted periods. In the first round of bargaining, negotiations continued over a period of 5 to 7 months, with the exception of the Railway Mail Clerks where 31 months were required to negotiate an agreement. This phenomenon may be attributed to a lack of bargaining experience on the part of both sides and to the number of contentious items placed on the table by the bargaining agent. 119

118 Ibid., s. 50.

119 Interview, November 1973, Mr. C.A. Edwards, President, Public Service Alliance of Canada
The second round of negotiations has proven, so far, to have been the most protracted with bargaining continuing through a minimum of 11 months to a maximum of 29 months. The major cause, in this round, was a tremendous volume of minor wording changes made by the Alliance, as a result of problems encountered in the administration of first agreements. The length of negotiations was reduced, for some groups, i.e. Correctional and Lightkeepers, in the third round of bargaining. However, such groups as General Labour and Trades and Ships' Crews remained in negotiations for more than 11 months. This pattern may be considered as depending upon the size of the bargaining unit. Thus, in small bargaining units where there may be only a single employing Department, i.e. Correctional, most major problems have been solved in previous rounds and, thus, negotiations have been shortened; however, inevitably, with large groups such as General Labour and Trades, with 26 employing Departments and 18 different trades, negotiations will continue to be protracted. Therefore, the protracted length of negotiations for bargaining units in the Operational Category may be attributed to such causes as lack of negotiating skill, large bargaining units, and excessive numbers of demands. Responsibility for reducing the length of negotiations rests squarely on the shoulders of both parties as each fully understands

120 Interview, November 1973, Public Service Alliance of Canada staff officer.

121 Interview, November 1973, Treasury Board negotiator.
the rationale. However, protracted lengths of negotiations often lead to a deterioration in the health of the industrial relations environment and, in future, dissatisfied bargaining unit memberships may begin to exert pressure on the Alliance to reduce the length of negotiations.

Collective Agreements

Collective agreement, under section 2 of the Act,

...means an agreement in writing entered into under this Act between the employer, on the one hand, and a bargaining agent, on the other hand, containing provisions respecting terms and conditions of employment and related matters. 122

Thus, Treasury Board and the Alliance may enter into binding collective agreements within the meaning of the provisions of the Public Service Staff Relations Act.

Section 56(2) of the Act may be considered as placing certain restrictions on the provisions of collective agreements, in that,

No collective agreement shall provide, directly or indirectly, for the alteration or elimination of any existing term or condition of employment or the establishment of any new term or condition of employment,

(a) the alteration or elimination of which or establishment of which, as

122 Public Service Staff Relations Act (R.S.C. 1970 c. 72), s. 2.
the case may be, would require or have the effect of requiring the enactment or amendment of any legislation by Parliament, except for the purpose of appropriating monies required for its implementation, or

(b) that has been or may be, as the case may be, established pursuant to any Act specified in Schedule III. 123

Accordingly, the Alliance is prohibited from bargaining a number of subjects enshrined in the Government Employees Compensation Act (R.S.C. 1970 c. 134), the Government Vessels Discipline Act (R.S.C. 1970 c. 137), the Public Service Employment Act (R.S.C. 1970 c. 71), or the Public Service Superannuation Act (R.S.C. 1970 c. 47). This effectively eliminates such items as job security, classification, seniority, and superannuation as subjects for negotiations. 124 Consequently, the bargaining agent’s ability to negotiate matters of crucial importance to its membership and also to engage in meaningful trade-offs at the bargaining table has been handicapped.

Despite the restrictions placed on the contents of collective agreements, the Treasury Board and the Alliance have entered into numerous contractual obligations during three rounds of bargaining. The diagram on the following page sets out the wage settlements compared to the length of agreements for bargaining units in the Operational Category. During round

123 Ibid., s. 56(2).

124 Interview, November 1973, Mr. J. K. Wiley, Vice-President, Public Service Alliance of Canada.
FIGURE 13
WAGE SETTLEMENTS AND LENGTH OF AGREEMENTS IN THE OPERATIONAL CATEGORY

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>ROUND 1</th>
<th></th>
<th></th>
<th>ROUND 2</th>
<th></th>
<th></th>
<th>ROUND 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>% Wage Increase</td>
<td>Agreement Length</td>
<td>% Wage Increase</td>
<td>Agreement Length</td>
<td>% Wage Increase</td>
<td>Agreement Length</td>
<td></td>
</tr>
<tr>
<td>CX</td>
<td>3.5 - 6</td>
<td>24</td>
<td>A/11.5 - 5.5 - 5.3</td>
<td>36</td>
<td>10 - 6 - 5</td>
<td>36</td>
<td></td>
</tr>
<tr>
<td>FR</td>
<td>5 - 6.5</td>
<td>24</td>
<td>A/12 - 6 - 5</td>
<td>36</td>
<td>10 - 6.5 - 4</td>
<td>29</td>
<td></td>
</tr>
<tr>
<td>GL</td>
<td>6</td>
<td>24</td>
<td>A/7 - 6 - 5</td>
<td>38</td>
<td>lump sum</td>
<td>13 - 5/4</td>
<td>36</td>
</tr>
<tr>
<td>GS</td>
<td>6 - 6 - 6.5</td>
<td>24</td>
<td>6.8 - 5 - 5</td>
<td>36</td>
<td>lump sum</td>
<td>7 - 6 - 5</td>
<td>36</td>
</tr>
<tr>
<td>HP</td>
<td>4.9 - 6</td>
<td>24</td>
<td>9.2 - 5.5 - 5.3</td>
<td>36</td>
<td>lump sum</td>
<td>14.48 - 4.5</td>
<td>22.5</td>
</tr>
<tr>
<td>HS</td>
<td>6 - 6</td>
<td>24</td>
<td>8.5 - 5.5 - 5</td>
<td>39</td>
<td>8.33 - 5.31 - 5.07</td>
<td>24</td>
<td></td>
</tr>
<tr>
<td>LT</td>
<td>5 - 6</td>
<td>24</td>
<td>8 - 6</td>
<td>24</td>
<td>8.4 - 5.5</td>
<td>26</td>
<td></td>
</tr>
<tr>
<td>RM</td>
<td>lump sum</td>
<td>36</td>
<td>6.4</td>
<td>29</td>
<td>10.62 - 3.54 - 3.17</td>
<td>33</td>
<td></td>
</tr>
<tr>
<td>PR(s)</td>
<td>6 - 4.5 - 5.5</td>
<td>24</td>
<td>7.9</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SC</td>
<td>8.2 - 6 - 6.5</td>
<td>36</td>
<td>8.75 - 7 - 6</td>
<td>36</td>
<td>10 - 8.75 - 7.25</td>
<td>27</td>
<td></td>
</tr>
</tbody>
</table>

* - in months  
A - Arbitral Award

one, a majority of the agreements were of a two year duration with wage settlements ranging from 9.5 per cent to 16 per cent. However, the General Labour and Trades and the General Services bargaining units may be considered as exceptions. During the second round, the average length of collective agreements increased to 36 months and, accordingly, wage settlements were increased on the average from 18 per cent to 23 per cent. Three groups diverged from this pattern: the Lightkeepers, as a self-contained group, opted for a two-year agreement; while the Railway Mail Clerks and Printing Operations (Supervisory) Groups diverged to follow patterns set by comparable groups in the Post Office and Printing Trades. The settlements in the third round indicate a wider divergence with agreements ranging from 22.5 to 36 months, and wage settlements from 13.9 per cent to 26 per cent. The foregoing analysis serves to indicate that pattern-setting played an important role in the area of agreement length and wage settlement during the first two rounds, however, the divergence in round three may be indicative of increased autonomy in the different bargaining units.

The Pay Research Bureau has responsibility for providing data on private sector wages and fringe benefits in a form which will necessarily fit the particular negotiations. As such, the data has utility for both sides in wage negotiation and also provides the Arbitration Tribunal with unbiased and well-formulated data. The Alliance has suggested that the Pay Research
Bureau's data universe is too large and, thus, "sweat shops" and "scab shops" are often covered in Bureau surveys. The data also serves an essential purpose for the employer, in that it enables the "government as employer" to be seen by the "government as government" as being explainable and reasonable in its wage settlements. Thus, the Pay Research Bureau operates an expensive system for the production of data of doubtful quality and the essentialness of its purpose within the industrial relations system is questioned by both the employer and union.

The specific fringe benefit improvements negotiated in the first three rounds of bargaining are numerous and varied. However, certain highlights include: vacation entitlement increased after fewer years of service; added statutory holidays; overtime; meal allowance on overtime; improved shift differentials; reporting, call back and standby pay; and improved severance pay benefits. Some distinctive features of fringe entitlements in agreements in the federal sector include: zone pay and regional rates of pay for employees in the Operational Category; penological factor allowance (PFA) for employees working in penal institutions.

126 Interview, November 1973, Mr. J. K. Wiley, Vice-President, Public Service Alliance of Canada.


and acting pay when an employee performs the duties of a higher position for some period of time.\textsuperscript{129} Thus, the fringe benefit entitlements available to employees in bargaining units in the Operational Category have been substantially improved through collective bargaining.

The diagram on the following page indicates the number of clauses contained in collective agreements in the Operational Category. During the second round of bargaining the number of clause changes per collective agreement ranged from a minimum of 15.6 per cent in the Lightkeepers to 71.1 per cent in the General Labour and Trades agreements; while in round three, clause changes ranged from a minimum of 31.3 per cent in the Lightkeepers to 82.9 per cent in the General Labour and Trades bargaining units. Accordingly, the enormous number of clause changes per agreement in each round are a major contributing factor to protracted lengths of negotiations, especially when a large number of these changes are solely of a minor wording nature.

Figure 15 details the clause headings of a typical collective agreement in the Operational Category. As indicated by the diagram, a substantial number of the clauses have similar wording and, often, clauses where differences occur have the

FIGURE 14
CLAUSE CHANGES IN COLLECTIVE AGREEMENTS

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>Number Of Clauses In Agreement</th>
<th>Number Of Changes In Clauses</th>
<th>% Of Clauses Changed In Agreement</th>
<th>Number Of Clauses In Agreement</th>
<th>Number Of Changes In Clauses</th>
<th>% Of Clauses Changed In Agreement</th>
<th>Number Of Clauses In Agreement</th>
<th>Number Of Changes In Clauses</th>
<th>% Of Clauses Changed In Agreement</th>
</tr>
</thead>
<tbody>
<tr>
<td>CX</td>
<td>38</td>
<td></td>
<td></td>
<td>38</td>
<td>17</td>
<td>44.7</td>
<td>40</td>
<td>24</td>
<td>60.0</td>
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<tr>
<td>FR</td>
<td>38</td>
<td></td>
<td></td>
<td>39</td>
<td>20</td>
<td>51.3</td>
<td>39</td>
<td>15</td>
<td>38.5</td>
</tr>
<tr>
<td>GL</td>
<td>41</td>
<td></td>
<td></td>
<td>45</td>
<td>32</td>
<td>71.1</td>
<td>45</td>
<td>27</td>
<td>60.0</td>
</tr>
<tr>
<td>GS</td>
<td>40</td>
<td></td>
<td></td>
<td>48</td>
<td>22</td>
<td>45.5</td>
<td>47</td>
<td>39</td>
<td>82.9</td>
</tr>
<tr>
<td>HP</td>
<td>38</td>
<td></td>
<td></td>
<td>38</td>
<td>17</td>
<td>43.6</td>
<td>39</td>
<td>18</td>
<td>46.1</td>
</tr>
<tr>
<td>HS</td>
<td>40</td>
<td></td>
<td></td>
<td>42</td>
<td>25</td>
<td>59.5</td>
<td>42</td>
<td>20</td>
<td>47.6</td>
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<td>LT</td>
<td>32</td>
<td></td>
<td></td>
<td>32</td>
<td>5</td>
<td>15.6</td>
<td>32</td>
<td>10</td>
<td>31.3</td>
</tr>
<tr>
<td>RM</td>
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<td></td>
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<td>9</td>
<td>29.0</td>
<td>34</td>
<td>13</td>
<td>38.2</td>
</tr>
<tr>
<td>PR(s)</td>
<td>35</td>
<td></td>
<td></td>
<td>36</td>
<td>16</td>
<td>44.4</td>
<td>45</td>
<td>25</td>
<td>55.6</td>
</tr>
<tr>
<td>SC</td>
<td>45</td>
<td></td>
<td></td>
<td>45</td>
<td>21</td>
<td>46.7</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

130 Operational Category, Collective Agreements.
<table>
<thead>
<tr>
<th>Clause entitled</th>
<th>Same Wording</th>
<th>Wording Differs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose of Agreement</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Definitions</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Application</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Official Texts</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Effects of Legislation</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>State Security</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Illegal Strike</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Management Rights</td>
<td>X</td>
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<td>Piece Work</td>
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Adapted from Treasury Board, Staff Relations Division, Comparative Analysis of Collective Agreements: Operational Category, Ottawa, Treasury Board, 1972.
<table>
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<tr>
<td>Duration and Renewal</td>
<td>X</td>
<td></td>
</tr>
</tbody>
</table>

| TOTAL                                   | 25           | 31              |
same wording but different entitlements. The major differences usually arise in substantive areas, such as wages, hours of work, and pay. In some agreements, such as the Lightkeepers or Ships' Crews, wording is necessarily different in order to deal with the special employment conditions of members in these bargaining units. However, pattern-setting is a major influence on the language of collective agreements in this Category. In the first round of negotiations, both sides were inexperienced and six agreements were being negotiated at once; thus, by mutual agreement, the Heating Power dispute was negotiated first and all fringe benefit clauses negotiated for that agreement became the clauses in the other five agreements.\textsuperscript{132} The result was to set a pattern for the language of the clauses in other agreements in the Category. In the second and third rounds, the Alliance philosophy appeared to change, in that attempts were made to obtain a breakthrough in one negotiation and then to employ it as a pattern-setting agreement for other agreements in the Category.\textsuperscript{133} Thus, innovation and improvements in one collective agreement generally result in a pattern for other bargaining units in the occupational category, especially where the bargaining agent is the same, as occurs with the Alliance in the Operational Category. Accordingly, since pattern-setting acts as a major force in negotiations in the Operational Category, the parties, in future,\textsuperscript{132} Interview, November 1973, Treasury Board negotiator.\textsuperscript{133} Interview, November 1973, Treasury Board negotiator.
may find a certain desirability in attempting to negotiate a master collective agreement for bargaining units in this category, thus eliminating the necessity of renegotiating the same demands in each bargaining unit.

Collective bargaining and collective agreements are necessarily predicated on a good faith relationship between the parties. However, as indicated in the foregoing analysis, collective agreements for bargaining units in the Operational Category may be considered as wordy and encompassing, even though constrained by the legislation. Thus, it is open to question as to whether the good faith relationship based on honouring the unwritten intentions of both sides at the bargaining table has been affected by an overzealous bureaucratic desire to delineate all intentions in collective agreement language.

Dispute Resolution

The Public Service Staff Relations Act provides a number of third-party services aimed at assisting the parties in reaching agreement. An integral part of the certification procedure is the specification, by the bargaining agent, of the process for resolution of the dispute, should an impasse in negotiations occur. Figure 16 indicates that, in the first round, all bargaining units chose the arbitration method and, in the second round, only the Ships' Crews group chose the conciliation board method, however,
### Figure 16

**Choice of Dispute Settlement Procedure**

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>Round 1</th>
<th>Round 2</th>
<th>Round 3</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>A</td>
<td>C**</td>
<td>A</td>
</tr>
<tr>
<td>CX</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
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<td>X</td>
<td></td>
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<td>GL</td>
<td>X</td>
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<td>GS</td>
<td>X</td>
<td></td>
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</tr>
<tr>
<td>HP</td>
<td>X</td>
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<td>HS</td>
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<tr>
<td>LT</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>RM</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>PR(s)</td>
<td>X</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>SC</td>
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<tr>
<td><strong>TOTAL</strong></td>
<td><strong>10</strong></td>
<td><strong>9</strong></td>
<td><strong>1</strong></td>
</tr>
</tbody>
</table>

* - Arbitration  
** - Conciliation/Strike

---

+ Refer back to Figure 11 (p. 89) for explanation of two letter initial used for each bargaining unit.
in round three, six groups chose arbitration and four chose the conciliation board method of dispute resolution. Although binding arbitration or a conciliation board are the legislated options for resolution of negotiation impasses, the parties may endeavour to reach a negotiated settlement with the assistance of other neutral facilities.

Conciliator/Mediator

Under section 52 of the Act, upon written notice by either party to the Board that they are unable to reach agreement, the Chairman may appoint a conciliator who shall, forthwith after his appointment, confer with the parties and endeavour to assist them in reaching agreement. 135

As depicted in the diagram on the following page, the appointment of a conciliator enabled the parties to reach a negotiated settlement in three disputes in round two and five disputes in round three.

Although "mediators" are not specifically provided for within the ambit of the Public Service Staff Relations Act, section 17(4) of the Act enables the Chairman to appoint conciliators and other experts or person having technical or special knowledge to assist the Board in an advisory capacity. 136

135 Public Service Staff Relations Act. (R.S.C. 1970 c. 72), s. 52.
136 Ibid., s. 17(4).
FIGURE 17

HOW AGREEMENT WAS REACHED

<table>
<thead>
<tr>
<th>Bargaining Unit</th>
<th>ROUND 1</th>
<th>ROUND 2</th>
<th>ROUND 3</th>
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<tbody>
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<td>CX</td>
<td>x</td>
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<tr>
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<tr>
<td>HS</td>
<td>x</td>
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<tr>
<td>LT</td>
<td>x</td>
<td></td>
<td></td>
<td>5</td>
</tr>
<tr>
<td>RM</td>
<td>x</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>PR(5)</td>
<td>x</td>
<td></td>
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<td>0</td>
</tr>
<tr>
<td>SC</td>
<td>x</td>
<td></td>
<td></td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>10</td>
<td>3</td>
<td>5</td>
<td>18</td>
</tr>
</tbody>
</table>

This provision has enabled the Chairman to appoint a mediator in situations where he considers that it may be inappropriate or disadvantageous to appoint a conciliator. As noted in Figure 17, the appointment of a mediator enabled the parties to reach agreement only once in the three rounds of bargaining, that dispute being the Printing Operations (Supervisory) dispute in the second round. However, mediators may often be appointed prior to submission of the dispute to the Arbitration Tribunal and, during the second round of bargaining, as a result of mediation efforts, the three disputes settled by binding arbitration proceeded to the Arbitration Tribunal with fewer items in dispute.  

Thus, a major advantage of a legislated capacity for the appointment of conciliators and mediators is that of providing the parties with alternative third-party assistance which may enable them to reach a mutually satisfactorily negotiated settlement without recourse to more stringent third-party intervention.

Arbitration Tribunal

Sections 60 through 77 of the Act provide for referral of the collective bargaining dispute to the Arbitration Tribunal. To date, the Arbitration Tribunal has been required to render

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138 Interview, November 1973, Treasury Board negotiator.

139 See above Chapter III for discussion on legislated jurisdiction of the Arbitration Tribunal.
three awards for disputes in the Operational Category, all of which occurred in the second round of bargaining.

The Arbitration Tribunal rendered binding arbitral awards for the Correctional, Firefighters, and General Labour and Trades disputes in the second round of bargaining. The major items in the awards for these three bargaining units included: hours of work, overtime, vacation leave, designated holidays, sick leave, rates of pay, shift premium, severance pay, long service pay, extra duty allowance, pay for travelling, and penal- ogical factor allowance. Thus, the Arbitration Tribunal, in making awards governing pay, hours of work and holidays, remained well within the prescribed terms of reference as set down by the Public Service Staff Relations Act.

Following receipt of these awards, and prior to serving notice to bargain for round three, Heating Power and Stationary Plant Operations, the Firefighters and General Labour and Trades bargaining units altered the process for resolution of the dispute to provide for the appointment of a conciliation board. This change may have resulted from membership dissatisfaction with the arbitration process. The Public Service Alliance of Canada considers the following to be some of the major disadvantages of

the arbitration process: the scope of matters in dispute which may be referred to the Tribunal is severely circumscribed by the legislation; the Tribunal is not prompt in rendering awards, often requiring more than six months to arrive at a decision; the Tribunal does not have the time or expertise to effectively handle the complex problems placed before them and, thus, the awards often create more problems than they solve; the Tribunal's awards are superficial and fail to come to grips with many problems; and, finally, the Tribunal's adherence to the maintenance of the status quo eliminates innovation in the industrial relations system. Therefore, the Arbitration Tribunal's awards may not have matched employee expectations, thus fostering pressures for a change in the method of dispute resolution. 141

The foregoing may be indicative of the Alliance's dissatisfaction with binding arbitration. However, the Alliance considers the following to be inherent advantages of this system: arbitration provides a solution for the resolution of the dispute which does not restrict member income; the award is binding on both parties; arbitration resolves the "gut issues" of pay and fringe benefits; the arbitration process provides certain employees, for which the strike would not be an effective weapon, with a viable dispute resolution process; and, finally, the arbitration

process resolves disputes for employees who may not be allowed to strike. 142

The Alliance, as bargaining agent, has responsibility for choosing the process for dispute resolution, however, either party may refer the dispute to arbitration. The reluctance to proceed to arbitration, as exemplified by recourse to the Tribunal on only three occasions in three rounds indicates that both parties recognize that arbitral awards are final and binding and must be "lived with", no matter how unsatisfactory the terms may be. Thus, the arbitration process is a stringent method of dispute settlement, however, the conciliation board method provides a possible alternative.

Conciliation Board/Strike

Sections 78 through 89 of the Act provide for referral of the collective bargaining dispute to a conciliation board. 143 Although the Ships' Crews, in round two, and the Firefighters and Heating Power and Stationary Plant Operations and General Labour and Trades, in round three, specified this process as the method for resolution of a negotiation impasse, a conciliation board has not been established in the Operational Category.

142 Ibid., pp. 19-20.

143 See above Chapter III for discussion on legislated jurisdiction of a conciliation board.
The Public Service Alliance of Canada considers this method of dispute settlement to have certain disadvantages, in that: the conciliation board cannot be established until the time-consuming and administratively cumbersome issue of "designated employees" has been resolved. As well, total designations may be so large that strike effectiveness would be severely limited. Finally, the rejection of a conciliation board report may force employees into a strike with its inherent economic hardships. Alternatively, the Alliance considers that one advantage of a conciliation board is that any provision contained in a collective agreement may be placed before a conciliation board, thus effectively enlarging the scope of third-party intervention. In addition, the conciliation board may act to extend negotiations and, thus, enable the disputants to reach a negotiated settlement. As well, the conciliation board report is not binding and may be rejected by either side, providing the employee organization with the opportunity to take strike action, a potent bargaining weapon. 144

Under section 2 of the Act, strike is defined as,

...includes a cessation of work or a refusal to work by employees in combination or in concert or in accordance with a common understanding, or a slow-down or other concerted activity on the part of employees designed to restrict or limit output. 145

144 Public Service Alliance of Canada, "Arbitration or Conciliation: ..." p. 22.
145 Public Service Staff Relations Act,(R.S.C.1970 c. 72), s. 2.
The Public Service Alliance of Canada, to date, has not withdrawn the services of any of its members for any bargaining units in the Operational Category. 146

The Alliance maintains that, regardless of whether or not the strike is used as a weapon in collective bargaining, the opportunity to strike should be retained. Mr. Edwards has suggested the following rationale for the Alliance not striking the employer in the Operational Category. First, the high percentage of safety and security designations would restrict the effectiveness of a strike. Second, bargaining units in the Operational Category generally consider the strike weapon too radical. Third, it would be an irresponsible action to "hit the bricks" over some innocuous item. And fourth, public sympathy for striking public servants may be difficult to arouse. 147

Alternatively, the state of mind of public servants must be considered as a factor contributing to their reluctance to strike. Civil servants, under the Public Service Employment Act, have been provided with an extensive amount of employment security. As well, since 1967, collective bargaining has provided substantial pay and fringe benefit provisions. This security

146 In February 1972 and August 1972, the General Labour and Trades and Heating Power bargaining units picketed the Employer for delays in bargaining. This has been the only form of militant action to date.

147 Interview, November 1973, Mr. C.A. Edwards, President, Public Service Alliance of Canada.
has lead many public employees to budget their income excessively and, thus, they are not willing or financially able to lose one hour's pay by a strike. Another compelling reason for not striking may be that the Alliance has no strike fund. \(^{148}\) Whatever the rationale, the Alliance, to date, has not utilized this form of industrial relations "warfare", thus creating a very docile collective bargaining environment.

**Grievance Adjudication**

Under section 2 of the Act, grievance was interpreted as,

...a complaint in writing presented in accordance with this Act by an employee on his own behalf or one or more other employees... \(^{149}\)

However, under section 91(1) of the Act, only grievances with respect to,

...(a) the interpretation or application in respect of him of a provision of a collective agreement or an arbitral award, or

(b) disciplinary action resulting in discharge, suspension or financial penalty... \(^{150}\)

---

148 Interview, November 1973, Treasury Board negotiator.

149 Public Service Staff Relations Act, (R.S.C. 1970, c. 72), s. 2.

150 Ibid., s. 91(1) (a),(b).
<table>
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<td><strong>162</strong></td>
<td><strong>210</strong></td>
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</tbody>
</table>

151 See unpublished index (Ottawa, 1973) by Treasury Board, "Index of Adjudication Decisions."
may be referred to adjudication. The diagram on the preceding page indicates the number of grievances referred to adjudication in the various bargaining units in the Operational Category. As will be noted, total references to adjudication have risen in recent fiscal years, however, references to adjudication by employees in the Operational Category have remained relatively stable. This stability may be attributed to a number of causes, including docile reluctance on the part of these blue-collar employees to formally present grievances, satisfactory resolution of possible adjudicable issues by union and management prior to a formal grievance being referred to adjudication, or fear of employer reprisals for grieving to adjudication. Thus, the reference of grievances to adjudication by Operational Category employees has remained relatively constant since the inception of the industrial relations system.

Figure 19 refers to the types of reference to adjudication, as well as outcome of adjudication decisions. Of the 133 references, 57 involved claims against disciplinary action under section 91(1)(b) of the Act, while 77 involved the interpretation of contractual language under section 91(1)(a) of the Act.

Generally, the larger populated bargaining units, such as General Labour and Trades, have larger numbers of grievances referred to adjudication, while smaller populated bargaining units, such as the Railway Mail Clerks, have fewer grievances to refer to adjudication. As well, employees in isolated areas, such as Lightkeepers,
### Figure 19

**Reference to Adjudication by Subject-Matter and Outcome**

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<tr>
<th></th>
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<th></th>
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<td>39.9%</td>
<td>14.3%</td>
<td>4.5%</td>
<td>24.7%</td>
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</table>

may not have utilized the adjudication mechanism as a result of physical isolation and lack of supervision.

Figure 19 also serves to indicate that, statistically, the employer's arguments have been considered more favourably by adjudicators. For bargaining units in the Operational Category, the employer has won approximately 40 per cent, while the Alliance has only won approximately 14 per cent of adjudication decisions rendered. However, close to 25 per cent of all cases have been withdrawn by employees. Withdrawals generally may be considered as resulting from the employer conceding to the grievor's demands prior to the reference being heard by an adjudicator. Thus, statistically, the employer and grievor are on fairly equal footing upon reference of a grievance to adjudication. However, in decisions where adjudicators have upheld the grievor's position, the similarity of collective agreement language creates a "domino effect", resulting in widespread repercussive effects throughout all Occupational Categories. 153

Under section 98(1) of the Act, either the employer or the Alliance may refer to the Chief Adjudicator matters where

...(a) the employer or the bargaining agent seeks to enforce an obligation that is alleged to arise out of the collective agreement or arbitral award, and

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153 Interview, December 1973, Mr. R. Steward, Assistant Secretary, Staff Relations Division, Treasury Board.
(b) the obligation, if any, is not an obligation the enforcement of which may be the subject of a grievance of an employee in the bargaining unit to which the collective agreement or arbitral award applies... 154

As of November 15, 1973, the Alliance had referred seven such policy grievances to the Chief Adjudicator for bargaining units in the Operational Category. Of this number, four were withdrawn prior to a hearing. The other three involved: failure to pay severance pay on lay-off, in the Heating Power-bargaining unit; failure to pay a casual employee severance pay in the General Services group; and failure to post scheduled hours of work in the General Labour and Trades bargaining unit. Decisions were not rendered by the Chief Adjudicator for any of these cases.155 The Alliance, in many cases, refers a policy grievance to the Chief Adjudicator solely to publicize the matter before the Treasury Board, where effective action to eliminate the practice in the offending Department may be taken. Thus, policy grievances result from a variety of causes, however, neither party has extensively utilized this grievance mechanism.

The grievance-adjudication procedure, legislated under section 90 through 99 of the Act has enabled employees to refer

154 Public Service Staff Relations Act, (R.S.C. 1970 c. 72), s. 98(1).
155 See unpublished list (Ottawa, 1973) by Treasury Board, "Index of Decisions".
their grievances to a neutral third-party for a binding decision within the industrial relations system, which constitutes a major advantage over other labour relations jurisdictions. However, this mechanism has adversely affected collective bargaining negotiations, as the once simple language, written for best understanding between employees and administrators, is now being replaced by legalistic language written for adjudicators.

Complaints to the Board

Under section 20 of the Act, the Public Service Staff Relations Board is empowered to examine and inquire into complaints made by either the employer or the bargaining agent, centering on alleged failures: to observe the prohibitions contained in the unfair labour practices sections of the Act; to implement provisions of an arbitral award; or to implement an adjudicator's decision with any regulation respecting grievances made by the Board.156

The Board, by November 15, 1973, had inquired into 103 such complaints under section 20 of the Act. Of these, 10 had been initiated by the Alliance for bargaining units in the Operational Category, however, certain of these complaints were

156 Public Service Staff Relations Act,(R.S.C. 1970 c. 72), s. 20.
enjoined by the Board, thus reducing the number of hearings to three. Two hearings concerned alleged failure, by the employer, to maintain in force the terms of the expired collective agreement, under section 51 of the Act, while the third complaint alleged that Treasury Board had failed to implement the terms of a new agreement within the time limit stipulated by section 56(1)(b) of the Act. The Board sustained the complaint by the Alliance under section 56(1)(b), and dismissed one, and rendered no decision in the other complaints under section 51. Thus, the legislation provides the employer and the Alliance with an alternative mechanism for third-party determination of disputes arising from the operation of the collective bargaining system without forcing either party to resort to a neutral jurisdiction beyond the confines of the legislated industrial relations system.

The foregoing has described the industrial relations environment of the Operational Category as it exists after three rounds of collective bargaining negotiations. A cursory examination of this industrial relations environment suggests that, in such a docile collective bargaining relationship, the Treasury Board and the Alliance rely excessively on third-party services. However, further examination would appear to indicate that this is not the case. The Public Service Staff Relations Act, as it is now constituted, provides for a proliferation of neutral services and, thus, the natural functioning of the system gravitates toward more frequent use of these varied offices. The
diversity of membership of the Public Service Alliance of Canada has led this union to rely on a neutral third-party so as to be seen by the membership as "not giving in too easily". Alternatively, since Treasury Board must be seen by the "government as government" as getting on with bargaining, recourse to neutral third-party services enables the employer to maintain this image. However, excessive utilization of third-party assistance is not, within this industrial relations system, to be considered as a sign of immaturity.

Often, attempts are made to characterize the maturity of a collective bargaining or industrial relations relationship. After three rounds of collective bargaining, the relationship between the Treasury Board and the Alliance is still in its infancy. Rapid personnel turnover in both Alliance and Treasury Board staffs is the major cause of this lack of maturity. The Treasury Board has experienced a substantial turnover in its negotiating staff, while recent elections at Alliance national convention has created a change in its responsibility centres. Thus, confidence and mutual trust between the parties has not been able to nurture, and accordingly, their industrial relations relationship lacks maturity.

The foregoing serves to indicate that the industrial relations environment of the Operational Category may in future years be affected by a "crisis in confidence". However, regardless
of the disagreements and the problems, the relationship will remain on-going and, in the future, as in the past, the Treasury Board and the Public Service Alliance of Canada will continue to share the same "collective bargaining bed".
CHAPTER VIII

THE CONSULTATIVE MECHANISMS

Staff relations in the federal public sector, since 1967, has centred primarily on the "adversary approach" to the resolution of disputes through the operation of the collective bargaining mechanism. However, within the industrial relations system, provision has been made for union-management consultation as a means of achieving viable solutions to a wide variety of subject-matters of mutual interest and concern to employees and the employer. The National Joint Council, Local Union-Management Consultation Committees, and consultation clauses in collective agreements thus have provided the Treasury Board and various employee organizations with another avenue of dispute resolution within the industrial relations system.

National Joint Council

Order-in-Council P.C. 3676, formally established the National Joint Council of the Public Service of Canada on May 16, 1944. 157 The National Joint Council was established to conform

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157 National Joint Council, The National Joint Council of the Public Service of Canada, 1944-1964, Queen's Printer, Ottawa, 1964, p. 11. Hereinafter and unless otherwise specified, the "National Joint Council of the Public Service of Canada" shall be referred to as the "National Joint Council".
to the then Government's policy of promoting employee representation and improving industrial relations in the private sector. However, the establishment of such a consultative mechanism fell far short of full-fledged collective bargaining and, as such, the National Joint Council's primary role was to act in an advisory capacity to the Treasury Board in matters affecting employment conditions in the federal civil service.\footnote{158}

Throughout the following twenty-three years, the National Joint Council functioned as the sole formal mechanism for employee representations to management in the federal public sector. The Council concerned itself with a wide range of topics, and a number of the major achievements of that period include: reduction of the work week to five days; "check-off" of staff association and union dues; Group Surgical Medical Insurance Plan; payment for overtime; shift differentials; improvements in compensatory leave and leave of absence; mileage allowance; and improvements in annual leave and statutory holidays.\footnote{159} Thus, the National Joint Council contributed to preparing the way for collective bargaining by providing a means whereby staff association and management representatives were able to discuss and resolve many problems in an objective manner.

\footnote{158} \textit{Ibid.}, pp. 12-14.  
\footnote{159} \textit{Ibid.}, pp. 17-18.
With the introduction of collective bargaining, the National Joint Council did not become obsolete but, instead, remained as the major forum for the discussion of problems of a service-wide nature. The service-wide base is derived from the National Joint Council's Constitution, which states that,

The purpose of the National Joint Council shall be to promote the efficiency of the public service and the well-being of those employed in the public service by providing for regular consultation between the employer, and those of its employees who come under the jurisdiction of the Public Service Staff Relations Act. 160

Thus, the National Joint Council functions as a forum for effective consultation between the employer and representatives of employee organizations.

The National Joint Council's membership consists of senior public servants representing the Treasury Board as "employer" and senior representatives of bargaining agents certified under the Public Service Staff Relations Act. The Council conducts its proceedings in the following manner. Separate meetings are held by the Official and Staff Sides, who then make proposals to the Council as a whole. The Council may study any subject that is not a matter for collective bargaining, but which affects the well-being and/or efficiency of federal employees. However, the

Council may consider subject matters of collective bargaining, upon agreement between the parties to bargaining to refer the matter to the Council and eliminate it from their negotiations. After full consideration of the proposals, the Council may then make recommendations to the appropriate executive body of the Government.\textsuperscript{161} Decisions of the Council are arrived at by mutual consensus and, thus, there is no necessity for the membership of the Staff and Official Sides to be numerically equal.

Since 1967, the Council has been concerned with an extensive series of topics, some of which include: statutory pay increases; merit pay; outside employment; occupational clothing; parking; cafeterias; lateness regulations; and succession duties.\textsuperscript{162} The Council has dealt with many of these subjects through its special working committees.\textsuperscript{163} Thus, the National Joint Council operates as the primary consultative mechanism in the industrial relations system, providing Treasury Board and various bargaining agents with a forum for the discussion of service-wide matters that affect the well-being of all federal civil servants.

\textsuperscript{161} Ibid., pp. 3-4.

\textsuperscript{162} Interview, November 1973, Mr. J.K. Wiley, Vice-President, Public Service Alliance of Canada.

\textsuperscript{163} Major working committees of the Council are: Health Insurance Programs; Travel Regulations; Public Service Pay System; Physical Working Conditions; and Foreign-Service Directives.
Union-Management Consultation Committees

Local union-management consultation was introduced by the Treasury Board for Departments and Agencies under Schedule I, Part I of the Public Service Staff Relations Act in September, 1971. The term "local consultation" connotes the specific direction of the program toward the establishment of a channel of communication between management and specific groups of employees in a particular location or organizational unit of a Department or Agency. The Treasury Board program was patterned after two highly successful programs developed by the Union-Management Consultation Branch of the Department of Labour for the Department of National Defence and the Department of Veterans Affairs.

Local consultation committees provide management and a defined group of employees with a vehicle for the discussion of departmental policies and employment conditions, as well as, the communication of information. The program was designed to fill the gap between discussion of matters in the National Joint Council and discussions between departmental management and employee representatives, centering on provisions of collective agreements. Thus, local consultation was developed to provide an official channel of two-way communication conducive to the discussion of local union-management problems.

164 The author was personally involved in the introduction of this program in the summer of 1971.
The local union-management committee consists of local officers of both the department and the bargaining agent. As such, the subject matter for consultation generally includes such items as: physical working conditions; internal communications; parking; equipment, tools, and uniforms; recreational activities; and planned change in programs and equipment. Thus, the range of matters subject to consultation is extensive; however, the discussions are confined to matters other than those which could lead to altering the intent of a collective agreement, or for which other formal channels of communications have already been established.

The foregoing discussion of the union-management consultation committee program indicates that the system was developed to provide a forum for the discussion of local problems. Thus, the system operates as a consultative mechanism designed to promote communications between employer and employee at the work site.

Consultation Clauses in Collective Agreements

Joint consultation clauses may be found in all collective agreements in the Operational Category. These clauses specify various subjects for consultation between the Treasury Board and the Alliance, and are worded so that, with respect to the matters
listed in the clause of the collective agreement.

...the Employer agrees that new policies will not be introduced and existing regulations or directives will not be cancelled or amended by the Treasury Board in such a way as to affect employees covered by this Agreement, until such time as the Alliance has been given a reasonable opportunity to consider and consult on the Employer's proposals. 165

Thus, the Treasury Board and the Alliance have made a contractual obligation to consult on various subjects enumerated in these clauses of their collective agreements in the Operational Category.

The subject matter of these clauses provides for consultation between the Treasury Board and the Alliance on items such as: pay administration; removal expense regulations; long-term disability insurance; appropriate measures to deal with the effect of technological change on employees; cafeterias and canteens; and provision for uniforms and protective clothing. 166 Failure to consult on any of the matters specified in the collective agreement may result in the Alliance filing a grievance under section 98 of the Act, alleging that the employer failed to abide by the terms of the collective agreement.

Of the foregoing procedures, the consultation clauses found in collective agreements are the most specific consultative


166 Ibid.
mechanism. However, as such, the consultations are limited to the subjects specified in the collective agreement. Thus, employees in the Operational Category are protected from unilateral management action for those matters specified by the collective agreement as requiring joint consultation.

The consultative mechanisms described above do not operate as an alternative to the collective bargaining process, however, they contribute to a more harmonious industrial relations environment. The consultative mechanisms appear, to some students of labour relations, as anachronism in a true adversary collective bargaining relationship. However, such a view necessarily eliminates any form of human relations approach to the practice of staff relations. Without consultation much of the subject matter involved would automatically be included in the contractual language of collective agreements, resulting in these documents becoming voluminous and unintelligible. Joint consultation may lead employees to file fewer grievances as they are more aware of management's intentions; while, alternatively, management becomes more aware of subjects which are of importance to the employees. Viewed in this light, consultation provides "mutual communication for mutual benefit". Thus, the consultative mechanisms function as a complement to the collective bargaining mechanism within the industrial relations system.
CHAPTER IX

CONCLUSION

The industrial relations relationship existing between the Treasury Board and the Public Service Alliance of Canada in the Operational Category has been set forth in the preceding pages. As initially noted, the eighteen blue-collar bargaining units represented by the Public Service Alliance of Canada were chosen for analysis because of the cohesive inter-relatedness of these occupational groups. As described in Figure 20, the principal functional elements of this system are the Public Service Staff Relations Board, the neutral third-party; Treasury Board, the employer; and the Public Service Alliance of Canada, the bargaining agent.

The Public Service Staff Relations Act provided for the creation of the Public Service Staff Relations Board, together with a core of grievance adjudicators and an Arbitration Tribunal. This neutral agency administers the provisions of the Act and functions in a regulatory capacity in relation to the rights and obligations of the employer, employees, and employee organizations. The centralization of neutral third-party services within a single administrative jurisdiction enables the Board to react quickly and positively to the needs of the parties should they require third-party assistance. As well, the Board provides the
disputants with a "face-saving" mechanism in the case of unresolvable disputes, a service which is of primary importance in an industrial relations environment which is as political as it is industrial. However, delays in the rendering of arbitral awards and adjudication decisions has reduced the credibility of the Board and, accordingly, the neutral services of the Public Service Staff Relations Board function as the stabilizing elements of the industrial relations system.

The Treasury Board was vested with authority to act as the statutory employer for Departments and Agencies in the central administration. The role played by Treasury Board is similar to that of the head office of a large corporation, in that, as the employer, the Treasury Board is responsible for negotiating and administering collective agreements, and representing management before the Public Service Staff Relations Board. However, Treasury Board is not responsible for the day-to-day direction of employees at the work site. As such, Treasury Board must rely, to a considerable extent, on Departmental staff relations personnel to provide the necessary "unity of management" and "commonality of approach" essential to effective personnel management in a large bureaucracy. However, Treasury Board's preoccupation with "crisis management" and lack of a well-defined approach to personnel policy-making in general, and collective bargaining in particular, may have created schisms in the management team. Accordingly, Treasury Board's ability to respond
adequately as the employer in the industrial relations system may have been significantly reduced.

The Public Service Alliance of Canada is the certified bargaining agent for eighteen blue-collar bargaining units in the Operational Category. The Alliance has a dual organizational structure with the Alliance Centre functioning as the central headquarters for the union and Components responsible for maintaining direct contact with the membership at the work site. This structure has contributed to a lack of communication between leadership and membership and has led many of the members to identify more strongly with their Component. The national leadership of the Alliance has adopted a non-militant, white-collar approach to collective bargaining. However, the blue-collar workers of the Operational Category may, in future, reject this approach and generate pressures for a more traditional "hard-line" approach in the conduct of their affairs at the bargaining table. Accordingly, the ability of the Public Service Alliance to respond adequately as the union in the industrial relations system may have been significantly impaired.

To date, the parties have negotiated three rounds of collective agreements. However, the industrial relations environment of the Operational Category lacks the maturity necessary for a healthy industrial relations relationship. Collective agreements are negotiated by officers of a centralized employer
and bargaining agent, a factor which creates communication bottlenecks, lack of adequate representation, and often leads the parties to become entrenched and intransigent in their positions at the bargaining table, resulting in protracted lengths of negotiations. The voluminous size of the collective agreements negotiated to date is indicative of a lack of mutual trust and represents a bureaucratic desire to enshrine all conditions of employment in a collective agreement. The occupational similarity of these bargaining units identifies the need for a more enlightened approach to collective bargaining through negotiation of a master collective agreement. To date, these bargaining units have remained non-militant, both at the bargaining table and in the grievance process. However, the benefits of militant action has definitely affected the thinking of the membership. The parties have made excessive use of the neutral services of the Public Service Staff Relations Board. This was acceptable in the initial period when industrial relations activities were operating in a vacuum, however, continued reliance on the neutral third-party will adversely affect the health of the industrial relations system. Thus, the system lacks the maturity so necessary for a healthy industrial relations relationship.

The employer and the union maintain a tri-level consultative mechanism through discussions at the National Joint Council, Local Union-Management Consultation Committees, and consultation required by collective agreements. Continued
maintenance of the consultative mechanisms is indicative of a desire to maintain a worthwhile mutual benefit system external to the adversary collective bargaining mechanism.

As set forth in the preceding pages, we have seen that the Public Service Staff Relations Act extended collective bargaining rights to almost all federal employees. The Act required the Public Service Commission to determine which groups of employees were to be placed in the five Occupational Categories. The Act established the Public Service Staff Relations Board as a neutral agency vested with authority for, in addition to other things, defining bargaining units, certifying bargaining agents, and overseeing the operation of the industrial relations system. Within this neutral jurisdiction, the Act provided for an Arbitration Tribunal, conciliation boards and grievance adjudicators. Therefore, the dispute settlement provisions of the collective bargaining mechanism function according to a legislative framework. The Act vested with Treasury Board the responsibility for acting as the employer in the industrial relations system and provided a legislated procedure for the certification of employee organizations as bargaining agents. Therefore, both Treasury Board and the Public Service Alliance of Canada received a statutory mandate to function as the employer and the bargaining agent in the industrial relations system. Thus, the peculiar nature of the employer-employee relationship between the Treasury Board and the Public Service Alliance of Canada in the
Operational Category is a direct consequence of the industrial relations system created by the provisions of the Public Service Staff Relations Act.
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