

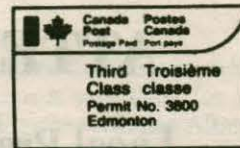
News Bulletin

VOLUME 16 NUMBER 1

UNITED NURSES OF ALBERTA

FEBRUARY/MARCH 1992

9th Floor, Park Plaza
10611 - 98 Avenue
Edmonton, Alberta
T5K 2P7



Maternity Leave Ruling Gives Birth to New Benefit Plan!

By David Harrigan, Director of Labour Relations

In April of 1989 Susan Parcels, a registered nurse working in psychiatry at the Red Deer Regional Hospital, applied for a maternity (mat) leave from her employer. Her mat leave was scheduled to begin in the middle of July that year. In May the hospital informed her that she would be required to prepay 100% of the costs of her benefit premiums (approximately \$800.00) for her mat leave in order to maintain her coverage. Since the benefits were contained in a package deal, she was not able to pick and choose which benefits she wanted to continue during the mat leave.

Susan contacted United Nurses of Alberta. With UNA's assistance, Susan filed a complaint under the Individual Rights Protection Act with the Alberta Human Rights Commission.

Although the original complaint revolved around the prepayment of benefits, the final hearing by the Commission's Board of Inquiry encompassed much more. The question of how leaves of absence of pregnant employees should be treated by employers was raised. United Nurses of Alberta took the position that since pregnancy was health-related, the health-related portion mat leave should be treated like any other health-related absence from the workplace. The employer, while agreeing that pregnancy was health-related, argued that the fact that the employee took a voluntary leave of absence prohibited her from claiming sick leave rights.

In a landmark decision handed down in July of 1991, the Board of Inquiry ruled that:

- In every pregnancy, there is a period of time, both pre and post delivery, when an employee must be absent from work for health reasons.
- An employer with a benefits plan must compensate its pregnant employees when they are absent for health-related reasons at the same level as it compensates any employee absent on sick leave.
- The compensation the employee receives must cover the entire period of the health-related absence, whether it occurs pre-delivery, during childbirth or during the recovery from childbirth.
- The amount of time that is health-related may vary amongst employees. A pregnant employee must follow the normal proof of claim procedures as any other employee normally a certificate from the attending physician.
- Employers may take advantage of UI benefits but the pregnant employee may not be compensated at a rate lower than other employees on health-related leaves.

The Alberta Healthcare Association and the Red Deer Regional Hospital announced that they would be appealing certain parts of the Board's decision. One of their main concerns is whether an employee can go off on voluntary unpaid LOA and then click into sick leave and then back to unpaid LOA without returning to work in the mean time.

The Alberta Healthcare Association did agree to immediately take steps to implement the uncontested portions of the Board's decision. In a series of meetings with United Nurses of Alberta, the AHA indicated that they would arrange for an Unemployment Insurance Supplementary Unemployment Benefits (SUB) plan. The AHA also agreed to pay all affected UNA members compensation retroactive to June of 1991.

The AHA's SUB plan went into effect in February. According to UNA's latest information, all AHA (including the RAH) hospitals, other than Empress, Leduc and Calgary General, have registered for the AHA's SUB plan.

The SUB plan, which is applicable only to the post-delivery portion of your absence from work, will cover all employees of the employer—not just UNA members. There will be NO COST to any employees for this plan.

There will be no deductions from an employee's sick leave bank while the employee is on the SUB plan.

Benefit premiums will be cost-shared 75/25 (employer/employee) while the employee is on the SUB plan as per the collective agreement.

You must apply for maternity leave benefits from Unemployment Insurance in order to qualify for the AHA's SUB plan.

How the SUB plan works

The SUB plan will only exist for the HEALTH-RELATED POST-DELIVERY portion of maternity leave. If she has any health-related absences pre-delivery she will collect monies from her sick leave bank or, if she has no sick leave credits, from short-

term disability. An employee can be on the SUB plan for a maximum of 17 weeks—if health-related reasons for absence exist for longer than 17 weeks she will receive sick leave/short-term disability.

When an employee goes off on mat leave, she will receive Unemployment Insurance benefits provided by the federal government. These benefits are set at 60% of the woman's regular earnings with a maximum payment of \$426.00 per week.

The AHA's SUB plan then tops up these benefits to a maximum of 95% of regular earnings. For example, if the employee has sick leave days in her sick leave 'bank' she would receive a total of 95% of her usual pay. (The Alberta Healthcare Association believes that due to the different rates of taxation and deductions, the 95% top-up is actually worth close to a 99.9% top-up.) If she had no sick leave credits in her sick leave 'bank' and thus would have been receiving short-term disability where employees receive 66-2/3% of their regular earnings, she would receive approximately 66-2/3%.

While the SUB plan is a major improvement for all employees in Alberta, unanswered questions still exist. The Union and the AHA will now have to examine the effects of the Board's decision on vacation accrual and movement on the wage scale while on health-related leave. The Negotiations Committee will be addressing these questions in this round of bargaining.

Each person's case will be different. **Contact your Local executive or one of the UNA offices (phone numbers are contained within the Board Box on page 8) for individual assistance with your maternity leave questions.** ☘

THANK YOU!



Susan Parcels with her daughter Rachel who will be 3 in July.

United Nurses of Alberta would like to take this opportunity to thank Susan Parcels for her determination to fight against discrimination towards pregnant women in Alberta.

Susan, a 1980 graduate of the Foothills Hospitals School of Nursing, was appalled by her employer's demand that she prepay benefit premiums for the duration of her maternity leave in 1989. Susan said, "I filed the complaint because the demand for prepayment seemed to be unjust and discriminatory [Susan had a mat leave when she was out-of-scope and was not asked to prepay any premiums]. I didn't realize then how big an issue this would all turn out to be . . . but it wouldn't have stopped me if I had realized!"

She says that she was ecstatic when the Board reached its decision last July. "Now other women won't have to face the same roadblocks when they decide to have children," she said.

Susan called the entire process thus far 'a real eye-opener' on corporate structure and insurance. She is planning to attend the AHA's appeal scheduled for March 16 & 17.



Negotiations '92 Fact Line

1-800-661-5372

The message on the line will provide you with the most recent information about negotiations.



— ALERT —

ATTENTION:

Local Presidents and Members Currently On WCB

By Nora Spencer, LRO

We have become aware that AHA has issued a directive to their member institutions to not pay full net salary to employees on WCB. As established by Arbitrator Rooke in 1989, full net salary includes all monies you would have received had you been at work, ie. shift differentials, weekend premiums, charge and/or responsibility pay, Named Holiday pay and education allowance. Article 20 of the AHA/UNA Collective Agreement directs the employer to pay injured employees full net salary; they apparently are now paying only the basic rate of pay to employees who have not exhausted their sick leave bank.

This is a clear violation of the collective agreement and shows total disregard for the arbitration decision. If you are affected by this or have knowledge that your employer is not paying full net salary, contact your LRO or your Local President to file a grievance.

A hearing has been scheduled for mid-April for a grievance filed by Local 115, but you must file an individual grievance to establish your right to retroactive payment. 🐾

Why Have Consumers Stopped Spending?

By Ed Finn/CALM

WHEN I WAS a lad working in the paper mill in Corner Brook, Newfoundland, I was perplexed by the local merchants' opposition to wage increases.

Every time the mill unions negotiated a pay raise, the city's retailers would complain that it was driving up labour costs in the community.

What irked them, of course, was that as a result they'd probably have to add a few dollars to their sales clerks' paltry pay cheques.

They had this blinkered view of wages as strictly a cost factor. They never seemed to understand that the mill workers' wages also made their cash registers ring.

I remember one time, when I was shopping for a new watch, being pressured by the jewellery store owner to splurge on one of the more expensive new self-winding models (you can tell here that I wasn't born yesterday).

"Put one aside for me," I told him. "If the union gets a good raise for me this year, I'll come back and pay for it."

He was startled. His eyes widened. It was evidently the first time he had made the obvious connection between his sales and his customers' incomes.

LATER, WHEN I was handling public relations for the unions, I developed a button to be worn by members when they went shopping. Its message: "Your Profits Come From My Wages."

I doubt if it had much of an impact. The same short-sightedness that afflicted the Corner Brook retailers 40 years ago continues to blind most business people today - but with more disastrous consequences.

Before the present government took over the country in 1984, unions were able to resist business efforts to keep the lid on wages. But since then, with the fanatical help of the federal government, the corporate assault on workers' wages has triumphed.

Consider the cumulative effects of this assault:

- 350,000 jobs lost due to free trade

- excessively high interest rates
- the goods and services tax
- higher unemployment and pension premiums
- legislated public sector wage controls
- cuts in transfer payments that have caused provincial and municipal governments to raise taxes

The list of income-sapping measures instituted by Ottawa goes on and on.

To be fair, not all business groups have supported all of these pick-pocketing policies. But most of them have. It's not a misnomer to call the federal government's scorched-earth tactics "the corporate agenda".

BUT WHAT I find breathtaking is the gall of business executives who blame consumers for the current prolonged economic slump. "If only workers would spend more," they whine, "prosperity would return."

Don't these corporate leaders realize their lifelong attack on unions and union-won wages has finally succeeded, and that, as a result, workers have little money left to spend?

Don't they know that with plants closing faster than food banks are opening up, and with thousands swelling the unemployed and welfare ranks every week, most unions can't even keep wage rates from slipping lower in real-dollar terms?

The government and its corporate pals don't seem to have anticipated this consumer rebellion. They blithely assumed they could drive down wages, raise taxes, throw a million people out of work, and still somehow maintain a healthy demand for the goods and services.

Well, the Canadians who are still working have news for their tormentors: they know a depression when they see one, and they'll hold onto every penny they've got while the present gang is running the show in Ottawa.

(Ed Finn is a research associate with the Canadian Centre for Policy Alternatives.)

It is with regret that United Nurses of Alberta notes the death of one of Alberta's foremost civil rights activists.

Sheldon Chumir was the MLA for Calgary-Buffalo and carried the responsibility of being the Liberal critic for: Attorney-General (Human Rights), Energy, Finance (including Corporate Finance), and the Solicitor-General. While these responsibilities kept Sheldon very busy, he also found time to be involved with many civil rights causes and had served as a lecturer on civil liberties and human rights at the University of Calgary Law School.

Sheldon will be sorely missed by all advocates of human rights.

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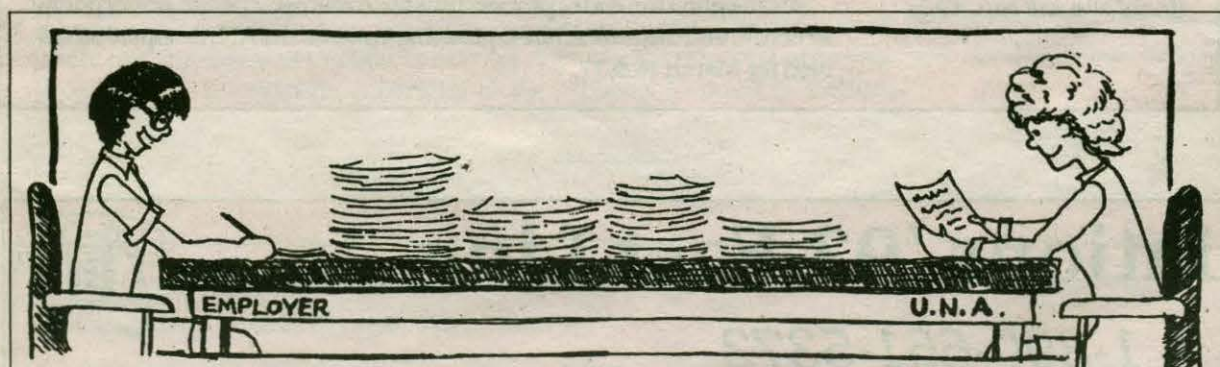
NEGOTIATIONS '92

Heath Unit Negotiations

By Murray Billett, LRO

After some delay, the Health Unit Association of Alberta (HUAA) has finally supplied to UNA dates for negotiations. The "Group of Eight" exchanged on Feb. 19th and will negotiate on March 3 & 4. Chinook Health Unit (Fort Mcleod) commenced negotiations on Feb. 5 & 6 in Lethbridge. Alberta West Central Health Unit (Edson) set Feb. 10 & 11 for their negotiations.

HUAA has gone through some changes recently. Both its chief negotiator and its Executive Director are new to the association and, consequently, that has translated into a delay for negotiating dates. However, now that dates have been set, we are optimistic that, with the staffing changes at HUAA, this round of negotiations will proceed without hindrance.



Negotiating Committee — Commencement of Bargaining

Hospital Negotiations

Negotiations continue with the AHA and the RAH. Further bargaining dates have been set as follows:

AHA

March 18, 19, and 20
March 25 and 26

RAH

March 10 and 11

The UNA Negotiations Fact Line has been established. The message will be updated by the Negotiating Committee as talks progress.

THE SUPREME COURT OF CANADA HEARS UNA CASE!

UNA Did the Right Thing!

By Hazel Paish

I was delighted to receive the word that I would be funded, through UNALEF, to attend this hearing. I was on the Negotiating Committee in 1988 and I think it was the hardest, most frustrating round of bargaining UNA has ever experienced. It was so very difficult to convey to the nurses, who trusted us to get a reasonable contract and do away with the cut-backs, the demeaning, almost contemptuous attitude of the A.H.A. We did everything we could to get this information out but it was difficult for us to believe what was going on, let alone convey it to others.

This now appears to be the final chapter of our fight, and I very much wanted to be in on it. As luck would have it, four of the 1988 Negotiating Committee members were at the Supreme Court: Heather Smith, Dale Fior, Sandie Rentz and myself.

I came by train - quite an experience! I arrived in Ottawa on Monday, December 2, 1991, at noon. No snow; the weather was beautiful. We hired an elongated taxi to take us on a sight-seeing tour of Ottawa. (Ottawa seems to be composed of ambassadors' houses, and government buildings.)

Tuesday morning we went over to the Court

House. Heather Smith had gone ahead of us as she had been requested to give an interview to the media.

The only provinces represented were Alberta, Quebec, and the Federal Government. B.C. was to take part via satellite, but since the sound system failed, BC had to concede. Apparently the other provinces had decided against presenting.

At 10:45 the 7 Supreme Court Justices walked in. Alex Pringle, UNA's criminal lawyer for this case, was the first one to present UNA's arguments. I tried to keep a kind of summary of the hearing but was unable to do so because of the number of references to parts of the criminal code, previous cases, etc. However, much of his presentation hinged on: the differences between civil contempt and criminal contempt; whether a trade union can be charged like a person; and the fact that UNA had been given the chance for cross-examination. He was frequently interrupted and questioned by the Supreme Court justices. Sheila Greckol, another UNA lawyer, presented after Alex finished his case. The court adjourned for lunch after Sheila's argument. She talked about the Labour Relations Act and the differences between a trade union and society.

We reconvened at 1400 hours, when Sheila

answered a couple of questions that the judges had asked her to research. Then it was time for the other side to give their evidence with the Alberta government's lawyer presenting. First of all he gave an account of the incidents the way the provincial government saw it - insisting that trade unions are subject to prosecution and must not be allowed to break the law. Civil contempt penalties were so lenient that criminal contempt charges were necessary as a powerful remedy for a desperate situation. This lawyer was very closely questioned by the judges who said they found it difficult to understand why this matter had to go beyond the Alberta Labour Relations Board.

The federal lawyers were to be heard after the Alberta lawyers, but since they had nothing new to offer, the judges did not bother to hear them. Next was the lawyer from Quebec who presented Quebec's case in French. When he was finished, Sheila gave a short rebuttal. Then it was all over but the waiting! We have no idea how it will turn out, but it looked more encouraging as the day wore on. We may not know for some time what judgment will be handed down, but I am convinced we did the right thing by pursuing it to the end. Who knows, UNA may win and set still another precedent! ♡



Left to right: Indra Chowdhury, Dale Fior, Judy Hove, Hazel Paish, Heather Smith and Sandie Rentz.

By Heather Smith

Almost four years after the 1988 strike by hospital nurses, we had our final day in court, the Supreme Court of Canada.

A total of six UNA members attended, including two members chosen in a draw of locals as directed by the delegates at the 1991 Annual General Meeting.

Heather Smith UNA President, Local #79 (Edmonton)
Sandie Rentz UNA Vice-President, Local #2 (Red Deer)
Dale Fior UNA Secretary Treasurer, Local #121-H (Calgary)
Hazel Paish President, Local #111 (Grand Prairie, CPL)
Judy Hove President, Local #136 (Barrhead)
Indra Chowdhury President, Local #102 (Crowsnest Pass)

UNA Legal Counsel: Sheila Greckol, Alex Pringle, & Simon Renouf (assisting counsel).

Intervenor: Government of Alberta, Government of Quebec, Government of British Columbia, & Government of Canada.

Guests in attendance the morning of December 3, 1991: Kathleen Connors, President, National Federation of Nurses' Unions; Debra McPherson, President, British Columbia Nurses' Union; Jan Mears, Chief Operating Officer, BCNU; Maggie Harwood, Nursing Home Representative, New Brunswick Nurses' Union; Vera Chernecki, President, Manitoba Nurses' Union; Heather Kane, Nursing Home Representative, NBNU; Pat Rogers, Secretary Treasurer, NBNU.

In 1988, two fines were levied against UNA for criminal contempt. As Heather Molloy, the then Secretary Treasurer, paid the first fine of \$250,000, a second charge was imposed which resulted in a further \$150,000 fine.

Our appeal to the Provincial Court was unsuccessful (decision February 21, 1990). However, Judge J. Veit dissented as she did not agree that a

trade union was a legal person. In her view a trade union, because it is not a legal person, could not be prosecuted for criminal contempt.

Arguments advanced by UNA legal counsel to the Supreme Court Justices:

1. Even if the common law offence of criminal contempt still exists despite the Canadian Charter of Rights and Freedoms, the definition of criminal contempt employed by the two justices when convicting UNA should no longer be employed.
2. The convictions for criminal contempt were unconstitutional, because the offense, as it has been created and subsequently defined, now violates ss.7, 11(a) and 11(g) of the Canadian Charter of Rights and Freedoms.
3. Justice Sinclair erred at the first hearing by not allowing UNA the right to cross-examine the deponents of various affidavits that were introduced into evidence at the first hearing.
4. A trade union does not have the quality of legal personhood under current law such that it can be convicted for criminal contempt.
5. Section 142(7) of the *Labour Relations Act*, properly interpreted, does not engage the criminal contempt power of the Alberta Court of Queen's Bench. Alternatively, if the statute is interpreted to engage the criminal contempt power of the Court, then it is submitted that the statute violates s.96 of the *Constitution Act, 1867*.

Counsel for the Government of Alberta argued that criminal charges were appropriate and necessary to force the union to end the strike. Further, its counsel argued that the penalties under civil contempt were not harsh enough to force the nurses to return to work. Sheila Greckol clarified

that penalties for civil contempt, which can include a prison sentence, would appear to be strict enough. A Supreme Court justice pointed out that the harsh fines did not force the nurses back to work, "the nurses returned to work when they achieved a negotiated settlement".

On the direction of the Supreme Court justices, the lawyers representing the Government of Canada did not present. As their argument was in response to challenges to the Canadian Charter of Rights and Freedoms, the dismissal was interpreted to mean that the justices would not be dealing with such issues.

At this time we do not know the content of the Quebec argument, as translation was only provided to our legal counsel.

The justices appeared to have difficulty accepting that UNA was not permitted to cross-examine the people who swore the affidavits during the original trial, and appeared even more uncomfortable with a requirement that Labour Relations Board directives are "rubber stamped" by the courts and transformed into an order of the court. This suggests that the courts are an extension of government, with no power to review orders or directives prior to enforcement.

A decision has not been rendered, UNA legal counsel has advised us that several months may pass before we know the final verdict. The general feeling of the UNA members in attendance was that the justices had listened quite attentively to our submission and appeared less than satisfied with the arguments provided by the Alberta government lawyers. Only time will tell. ♡

UNA Means What It Says!

By Judy Hove

I would like to thank all members of this union for allowing me the opportunity to go to Ottawa and attend the challenge to the Supreme Court. It was a very rewarding and educational experience, one I will never forget.

I was very impressed with how well prepared and professional our legal counsel was.

I would like to thank Heather Smith, Sandie Rentz and Dale Fior for the hospitality shown to us. We had a wonderful stretch-time tour of Ottawa that was just great.

We had a great time and my personal opinion is: we made the Attorney General and the Alberta government look foolish!

I hope we get back the money that belongs to us - but of greater value the message to the government that we "mean what we say and we say what we mean". ♡

Only Time Will Tell

Collective Bargaining

by Trudy Richardson, E.O.

United Nurses of Alberta is once again in bargaining. Negotiations will take centre stage for the next several months, as fifteen of the seventeen Collective Agreements that UNA administers are up for renegotiations. (The only two contracts that do not have an expiry date in 1992, are the Victorian Order of Nurses, Local #61, and Bethany Care-Cochrane, Local #173.)

As negotiations proceed, the members of UNA will be sent information on the progress of bargaining. You will also be asked to provide input to your Negotiating Committees. We encourage all of you to attend your Local meetings in order to receive information and to give direction to the Union. This is a vital part of collective bargaining.

Free collective bargaining is a process wherein two parties meet to negotiate a Collective Agreement which defines such things as wages, benefits, schedules, vacation entitlements, seniority and pensions. One party at the bargaining table is the employer; the other party is the union which represents all of the employees to whom the Collective Agreement will apply.

The final agreement is almost always the result of both parties' in-going proposals being amended; wording being changed; and compromises being made. Throughout negotiations each side makes its concessions based on its assessment of the seriousness and strength of the other party. Because employers have traditionally had more power than workers, unions have had to rely heavily on the right of members to withdraw their labour—a strike to pressure the employer to make a better offer. If the employer cannot afford a strike, then that employer is often more prepared to make concessions, agree to demands, and make compromises.

In Alberta, the process of collective bargaining is governed by the *Alberta Labour Relations Code* and the *Alberta Public Service Employee Relations Act*. These Acts clearly set out the process of collective bargaining, and mandate which actions are legally allowed and which are not. Under the current legislation, the government relies heavily on what is called "third party intervention". This concept is based on the fact that the two parties in bargaining may hit an impasse—a moment in time when neither party will make further concessions, and bargaining breaks down.

When the parties at an Alberta public sector bargaining table reach an impasse, then a 'neutral' third party is called in to resolve the impasse. The concept is simple—in place of a right to strike or to lock out, the union and the employer hand over their destinies to some individual or group appointed by the government.

Another common government strategy of interference in the process of free collective bargaining is "essential services legislation". In this type of intervention, the government does not take away the right of public sector workers to strike, nor the right of employers to lock out. Instead, it limits those rights. The union has the legal right to call a strike and the employer has the legal right to lock out the workers, but certain jobs are deemed "essential", and specified employees must work during the strike or lockout.

Bargaining - The UNA Way

UNA has developed a long process which allows and encourages every member and every Local to put forward what they want in a new Collective Agreement. Local meetings address and vote on individual Articles in the Agreement, and then submits its list of demands to the Negotiating Committee which compiles the lists and sends the resulting package back to the Locals along with the Negotiating Committee's recommendations. The Locals then send delegates to a demand-setting meeting where the Negotiating Committee recommends a set of proposed demands. Delegates are free to make changes to these demands but all changes must be based upon the package of compiled demands from Locals. The final package of demands which comes from this meeting is then sent back to the Locals for ratification. Once ratified by the Locals, this package becomes UNA's in-going position at the bargaining table.

At least once during negotiations a reporting

meeting is held wherein the Negotiating Committee reports to Local delegates on the progress of bargaining and may make recommendations and seek direction from the delegates. Later, if the employer makes an offer of settlement, this is brought back to UNA members through phone fan-outs, meetings, mailings, and NewsBulletin articles.

If bargaining reaches an impasse and it is not possible for a Negotiating Committee to reach a settlement, the Committee will recommend either acceptance of the employer's last offer or strike action to force the employer to improve the offer. If the recommendation is to strike, a strike vote is held in all Locals in group bargaining. If strike action is rejected by the membership then the Negotiating Committee is directed to go to the bargaining table and accept the employer's last offer which forms the basis of a new collective agreement. If strike action is accepted, all UNA Locals covered by the agreement go on strike in an attempt to force an improved offer from the employer. All offers must go to the Locals for ratification.

This is free collective bargaining, and it allows members of UNA to make decisions at every point of the process about what they will work for and what they will not.

UNA Negotiation Policies

UNA believes there are two objectives in negotiations:

1. foster meaningful collective bargaining for the employees;
2. produce decent and sensible collective agreements for the parties;

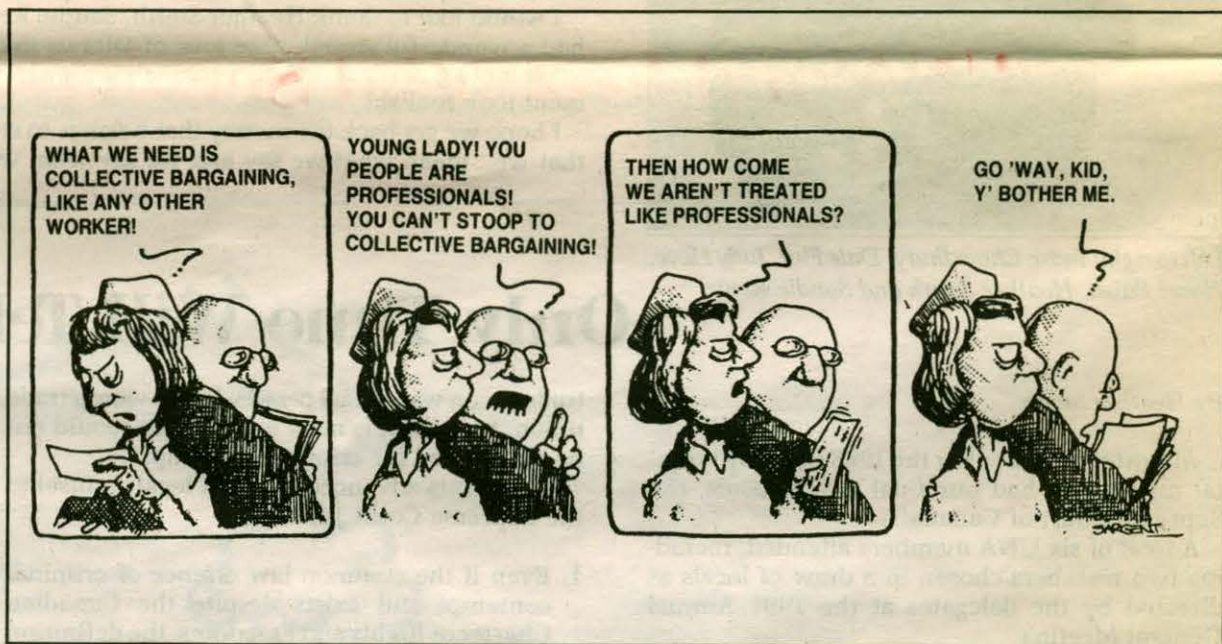
Some legislators have proposed a third objective with which UNA disagrees, but we include it here in order to raise UNA's objections.

3. minimize industrial unrest and the harmful impact this may have on the general public.

the legal right to organize into unions and engage in collective bargaining in the 1960's. Until that time, the Canadian public had little experience of the effects of public sector strikes or lockouts. Since the 1960's the Canadian public has had experience of public sector strikes, and many people have demanded alternatives to strikes and lock outs.

In public sector strikes, the ordinary citizen is often described as the "innocent victim" caught in the middle of a battle between the government and a union. Politicians then enter the picture as the legislators who must protect the public from any painful fallout from the labour-management dispute. However, when public service employees go on strike, the union members themselves feel the brunt of their actions. Their paycheques stop coming, and they must individually and collectively try to offset their financial losses. Their strike action is directed towards their employer who is in the business of providing public services. But the income of the employer is seldom adversely affected. Indeed, most public sector employers "make money" in a strike situation. And the irony is often that they can settle a strike and meet union demands for increases in salaries and benefits by using the very money they did not pay these employees during the strike. So what is the entity that is pressured by a public sector strike? What will force the government bargaining committee to reach a negotiated settlement? The answer is simple—the public. The general public is not an innocent, uninvolved bystander in a public sector strike. The public is the "employer"—it elects the officials responsible and it supplies the tax money which can settle the dispute. The public must, of necessity, feel the withdrawal of services in order to pressure its government representatives to be a little more accommodating and reasonable at the bargaining table.

As members of a public sector union, UNA nurses do not expect the public to support or to



1. FOSTER MEANINGFUL COLLECTIVE BARGAINING FOR EMPLOYEES

For the process of collective bargaining to have meaning it must be free and fair. The parties involved must understand that the final agreement will govern the work lives of the employees covered by the collective agreement. Because the agreement will have profound effects on both parties, it is only logical that these two parties be the final decision-makers as to the contents of the agreement.

2. PRODUCE DECENT AND SENSIBLE COLLECTIVE AGREEMENTS FOR THE PARTIES

This second objective is at the heart of collective bargaining; it is the purpose of the whole process.

3. MINIMIZE INDUSTRIAL UNREST AND THE HARMFUL IMPACT ON THE GENERAL PUBLIC

This objective is the one most commonly at odds with the other two objectives. All too often, in the midst of a public sector strike, the politicians sit back until the media and the public raise the issue of harmful impact on the public, and then they quickly pass legislation to end the strike or lockout.

Canadian public sector workers were granted

approve our strike action. The health care consumer is no different from other consumers, and expects the best possible product or service at the cheapest price. Up until 1977, the Alberta government led the public to believe they could have just that. During the 1977 and subsequent hospital strikes, some members of the public were not happy. They had paid their taxes and expected to have hospital services provided. Citizen anger was often directed at the nurses on strike rather than at the hospital employers or the government, those ultimately responsible for providing the service.

"UNA believes that the right of workers to organize and engage in free collective bargaining is fundamental in any free society.

There should be no legal restrictions on the right of Unions and Employers to participate in free collective bargaining.

An essential element of the bargaining process is the right of workers to withdraw their services.

Consistent with this belief, UNA will not participate in any system which limits the right of any worker to take strike action."

UNA and Compulsory Arbitration

UNA's policy clearly states that there should be no legal restrictions on the right to free collective bargaining. But because the government continued to impose compulsory arbitration on UNA hospital members, UNA also passed a policy which specifically opposes compulsory arbitration:

In 1985, UNA delegates to the Annual Meeting voted to apply this policy rejecting compulsory arbitration to all UNA negotiations:

"UNA is opposed to any compulsory arbitration legislation. Regardless of any legislation, UNA members alone, and not the Government or any other body, shall decide when this union will strike and when it will not."

UNA Negotiating Committees will negotiate in good faith to conclude a collective agreement. In the event that it is not possible to conclude a settlement, the Negotiating Committee will meet with the membership, and conduct a vote on the employer's last offer at the Local level.

If the employer's last offer is accepted, it will form a basis of a new collective agreement. If the employer's last offer is rejected, UNA will not participate in arbitration."

In 1986 delegates to the Annual Meeting once again rejected UNA participation in compulsory arbitration and passed a motion that this policy of non-cooperation be put to a ratification vote of the members in each Local. In 1987 UNA's membership voted to continue the policy opposing compulsory arbitration.

Rationale for UNA's Position

Three different experiences form the rationale underpinning UNA's position.

1. Theory

First of all there is the theoretical basis already stated: UNA believes in free and fair collective bargaining.

2. Experiences of other unions

Secondly, there are the experiences of many public sector unions in Canada that have first-hand knowledge of compulsory arbitration—some by choice and some by legislative coercion. To understand fully the experiences of these unions it would be necessary to know the details of each work situation, the details of negotiations, and the specific political and economic climates within which compulsory arbitration took place. Nevertheless, some general statements can be made about different unions' experiences with compulsory arbitration:

A number of descriptive phrases are used to describe the effects of the arbitration process:

a. **"The narcotic effect"**: refers to the fact that the addictive use of arbitration allows both the union leadership and the employers to blame a third party for all the difficult and disagreeable decisions. Both parties at the bargaining table can become addicted to the political protection provided by compulsory arbitration.

b. **"The chilling effect"**: refers to the fact that both parties submit more and more to the arbitration process, and actually bargain less and less. The parties cling to their ingoing positions so as to provide the arbitration board with a maximum difference—arbitrators traditionally play King Solomon and divide down the middle. The wider the spread, the more likely the middle will be a better deal.

c. **"Polycentricity"**: refers to the fact that complex questions about working conditions, which only the parties understand, are submitted to arbitrators who are ill-equipped to understand the complex issues. Arbitrators are not necessarily acquainted with complex working conditions.

d. **"The betrayal factor"**: refers to those instances in which unions have submitted to compulsory arbitration with the first award being generous. Union members are then favourably prone to submit to future arbitration procedures. Subsequent awards tend to become less and less satisfactory to the workers but it becomes difficult to regain momentum for strike action.

e. **"The delay factor"**: refers to the fact that arbitration procedures are long and costly. Awards come out one, two and even three years after the expiry of a collective agreement. This leaves the union in a difficult position as to what the real wages and conditions of work, and what improvements are needed.

3. UNA experience of government

Intervention in strikes

The third reason that UNA opposes compulsory arbitration is our own experience. In successive rounds of collective bargaining for hospital contracts, the government has interfered with UNA members' right to strike. Back-to-work orders, public emergency declarations, massive fines, threats of union decertification, cessation of union dues, Disputes Inquiry Boards, compulsory arbitration, government attempts at sequestration of union funds and assets, civil contempt charges, criminal contempt charges—all of these have been used to deny UNA hospital nurses their right to strike. And the enactment of *Bill 44* in 1983 took the legal right to strike away from these same nurses.

Thus, based on our own experience, on the experiences of other unions, and on the principle of free and fair collective bargaining, UNA rejects compulsory arbitration and all other government intervention in the bargaining process. ♡

UNA and Essential Services Legislation

United Nurses of Alberta likewise opposes another form of government interference in free collective bargaining—essential services legislation. This kind of legislation would give identified public sector workers a limited right to strike, and would quiet the citizen voices calling for the continuation of public services.

In Alberta, throughout the 1980's, and particularly after 1983, the question of essential services legislation began to be discussed as an alternative to *Bill 44*. During the 1990's many politicians embraced this idea, and today, in 1992, public sector unions in Alberta are faced with the distinct and likely possibility that the government will enact essential services legislation for some, if not all, public employees, including nurses.

Arguments in Favour

Essential services legislation:

1. guarantees the maintenance of public services;
2. lessens the financial loss to union members;
3. reduces the possibility that the public sector employer actually makes money on the strike—money often used to reduce deficits and/or to pay the increased costs of a settlement with the union;
4. silences the public and the media in their criticisms of public sector strikes;
5. maintains a limited right to strike, and is therefore seen to be less Draconian than current labour laws which remove the legal right to strike from specified employees; and
6. removes the pressure from the politicians and the government.

Arguments Against

1. Frequency of strikes:

One rather common statement is that a limited right to strike makes strikes less likely. Certainly it makes strikes less painful. But there is no evidence that strikes are less likely nor that they are shorter. Indeed, it would seem that a limited right to strike would

actually prolong the strike—"the shorter the picket line, the longer the strike". Union members would not have the ultimate leverage of maximum pressure to effect a rapid settlement. And the settlements they receive are less than satisfactory. Experience has shown that the rewards for workers involved in limited strikes are less than in full strikes.

2. Definition of essentiality of services, and the question of who decides:

This argument against essential services legislation is based on the fact that no one seems to be able to propose a workable scheme about what is essential and what is not. Certainly not everything that a nurse does is essential to the sustenance of life, but where do you draw the line? And who draws the line?

This whole problem of definition and decision-making has led some governments in Canada to declare all public sector workers essential. Other jurisdictions name only firefighters, police officers, and hospital workers. The others fall between these two extremes.

3. No guarantee of uninterrupted services:

If the government takes upon itself the right to determine that certain workers are essential, then how does that government guarantee that services will not be interrupted? Large fines; criminal and civil convictions; cessation of union dues; and even jail sentences have not stopped Canadian workers from withdrawing their services.

4. Contradictions:

Beyond the question of what is essential, who decides, and how do you guarantee services, is the legitimate frustration public sector workers feel about the schizophrenia and hypocrisy of government and government-funded employers. They declare public sector workers essential for strike and lockout purposes, and then unilaterally lay off those same workers when their budget policies "down-size" the services.

UNA remains opposed to essential services legislation not simply because it is unworkable, but also because it is unnecessary. The University Hospital in Edmonton remains open during a UNA strike, thus providing a certain level of service. The out-of-scope management nurses, the other health care workers, the doctors, and the management personnel can provide for an additional level of service. And UNA Emergency Services Committees provide emergency services. The employers and government already have their essential services. There is no need to pass further legislation which fetters the right to bargain and the right to strike.

UNA History with Emergency Services During Strikes

When UNA hospital nurses went on strike in 1977, 1980, 1982, and 1988, the union recognized the need for emergency services, and in accordance with the professional responsibilities of nurses, provided emergency services.

During the 1980 and 1982 UNA hospital nurses' strikes, Locals were encouraged to pull out all members and provide emergency services only. Each Local set up an Emergency Services Committee and made decisions at the Local level as to which services would be provided and by whom. A number of Locals chose to sanction the continuing staffing of specific units. In 1982 UNA also wrote to the Minister of Labour and the Minister of Hospitals and Medical Care, asking them to advise UNA of any emergency situation that the government saw developing. The Deputy Minister of Labour assured UNA officials that he would do that. Having not heard from the government on this matter, UNA was left to assume that no such emergency occurred.

In 1983 the Alberta Government passed *Bill 44* which made it illegal for all hospital employees, including nurses, to take strike action; and made it mandatory to go to compulsory interest arbitration. This was an attempt to rearrange the process of free

continued on page 6

collective bargaining in that the strength of the union would be seriously reduced. In fact, it would have given impetus for the employer to demand concessions, roll-backs, and take-aways from the workers without the fear of a strike.

In 1983, the government's stated reason for introducing *Bill 44* was "to ensure the continued availability of health care services for the people of Alberta". (Ironically, this bill was introduced at the same time as the Alberta government was encouraging hospitals to impose user fees, and was condoning the practice of "double billing" by doctors. These were hardly measures to ensure the continued availability of health care services.)

In preparation for the 1988 hospital nurses' strike, UNA developed a policy that stated that all members would be pulled out and emergency services would be provided in the event of an occurrence that would normally trigger the hospital's internal disaster plan. Some Locals did choose to provide 24 hour staffing of specific units.

Through the 1977, 1980, 1982 and 1988 UNA hospital nurses' strikes there has never been any substantiated allegation that any of these with-

drawals of services had endangered any members of the public. Nor have any such allegations been substantiated in other UNA strikes—the 1985 ten-month strike of UNA provincial health unit nurses, the 1985 VON Calgary strike, or the 1991 Bethany Care nursing home strike in Cochrane. UNA Locals have always acted responsibly during a strike.

UNA currently has a policy on the provision of emergency services during a strike that reads:

"In the event of a strike UNA will withdraw all nurses from the affected hospitals. No regular staffing will occur nor will UNA negotiate any level of regular staffing.

Consistent with our professional responsibilities and past practice, UNA will provide emergency services as authorized by the Local.

Locals will organize an Emergency Service Committee that will be responsible for providing nursing services if the staff available to the employer (management nurses, doctors, etc.) are incapable of providing the needed services and only where the need for nursing services arises due to unusual circumstances beyond the regular day-to-day operations of that institution."

Conclusion

Strikes are not the perfect solution to the difficult question of how to break the impasse that occurs at the bargaining table. But after examining the other options—third party interventions, and essential services legislation—the strike remains the least imperfect method of settling disputes in negotiations.

UNA supports the right of every worker, including every public sector worker, to withdraw services from the employer. UNA supports the free and unfettered right to strike in order to achieve a freely-negotiated Collective Agreement. Any labour legislation that interferes in the process of free collective bargaining through such mechanisms as third party intervention and essential services, is contrary to UNA's support of full and free collective bargaining. 🍷

Comments on strikes and worker rights . . .

"The justice of any socioeconomic system deserves in the final analysis to be evaluated by the way in which work is properly compensated . . . The organization of workers into unions is necessary to protect the rights of workers, especially the right to a just wage . . . In this connection, workers should be assured the right to strike, without being subjected to personal penal sanctions for taking part in a strike."

Pope John Paul II

"It is the possibility of the strike which enables workers to negotiate with their employers on terms of approximate equality. If the right to strike is suppressed, or seriously limited, the trade union movement becomes nothing more than one institution among many in the service of capitalism - a convenient organizing for disciplining the workers, occupying their leisure time, and ensuring their profitability for business."

Pierre Elliott Trudeau

"For effective collective bargaining, employees must be free not only to form trade unions and to bargain with employers, but also to invoke economic sanctions in support of their bargaining. The strike and the lockout are necessary counterparts to free collective bargaining."

U.S. Senator H. Carl Goldenberg

"The records demonstrate that most unions make every effort to settle disputes without recourse to the strike . . . Union leaders, far from fomenting trouble, spend most of their time settling disputes before the strike stage is reached."

Economist J. Raymond Walsh



"Excuse me for crying. I just saw what your Government has in mind for you."

Letter to the Editor

Dear Ms. Smith:

I am responding to a number of telephone calls from your members expressing concern over the Calgary Public Teachers' advertisements in today's newspapers.

I can assure you that this ad was not meant to disparage in any way the important and vital contribution of your members to the well-being of the citizens of Calgary.

Also, in no way did it indicate that you were undeserving of the salaries which you are receiving. Clearly, our members have always supported your efforts for reasonable and fair salaries. I hope you understand that we were simply attempting to point out our belief in our own worth and our right to fair and reasonable remuneration.

I hope that this letter will resolve any concerns in this regard. If you require further information, please contact me.

Yours sincerely,

Dick Hehr, *President ATA, Local #38*

Executive Board Meeting Summary - December 1991

Motions from Executive Session

The following motions were adopted:

The temporary L.R.O. position be made into a permanent position to be located in the Southern Alberta Regional office.

Two (2) part-time or one (1) full-time administrative staff position is to be hired. One of these positions is to be in the Southern Alberta Regional office.

A six to nine month contract has been approved for a consulting position to facilitate computerization. This individual is to assist both staff and members in the computerization of U.N.A.

A temporary L.R.O. will be hired for the Edmonton Office for a three to six month term to replace an employee on sick leave.

Correspondence

The Calgary Office has been renamed as:

"U.N.A. Southern Alberta Regional Office"

The Committees of the Board for 1992 will be as follows:

STANDING COMMITTEES:

Education Committee

Carmelita Soliman - Chairperson
Kathy James
Sheila Bailey
Marilyn Coady

Finance Committee

Dale Fior - Chairperson
Keith Malkin
Val Holowach
Holly Heffernan
Darlene Wallace

Occupational Health & Safety Committee

Pam Liegerot - Chairperson
Shelley Moug
Donnie Meehan

Membership Services Committee

Isabelle Burgess - Chairperson
Gina Kelland
Gail Tymens

Legislative Committee

Andy LeBlanc - Chairperson
Sandie Rentz
Karen Craik
Diane Poynter
Bev Dick

Steering Committee

Heather Smith - President
Sandie Rentz - Vice-President
Dale Fior - Secretary/Treasurer
Carmelita Soliman - Education
Andy LeBlanc - Legislative
Isabelle Burgess - Membership
Pam Liegerot - Health & Safety

AD-HOC COMMITTEES:

Pension Committee

Val Holowach - Chairperson
Gail Tymens
Keith Malkin
Sheila Bailey

Political Action Committee

Kathy James - Chairperson
Darlene Wallace
Bev Dick
Gina Kelland

Publications/Communications Committee

Diane Poynter - Chairperson
Marilyn Coady
Shelley Moug
Holly Heffernan
Karen Craik

Committees

All the Standing and Ad-Hoc Committees revised or amended their Terms of Reference and Long and Short-Term Goals. They were all adopted and will be included in the updated Policy and Procedure Manual.

In addition to the above, the Committees passed the following motions:

Education

That a three hour educational workshop be part of the next District meetings. This educational workshop would address the issues of *Compulsory Arbitration and Essential Services Legislation*. The Education Officer would be assigned to teach all such workshops, one in each District in the month of January or February.

That the Education Officer and the Communications Officer develop and produce the kits, manuals, videos and standard UNA documents identified by the Executive Board in the

December 9th 'Priorities and Plans' document.

No workshops will be scheduled from January to June 1992.

Membership Services

U.N.A. is to establish a Hospitality Committee, with each District selecting one member at large to participate on this committee.

Pensions

That a binder or file with current articles be kept at the office. Location of file in office to be in the bookcase by the Executive Officer's Offices.

Finance

Any individual who possesses a UNA credit card and incurs an outstanding debt to UNA will have the card revoked. They may, three months from the date that the outstanding debt is paid, reapply to the Finance Committee for return of the card(s). Any further outstanding debts will result in the card(s) being revoked permanently.

For any debt to UNA by a member, payment is due in full upon receipt of the first invoice by the member. Any debt not paid in full within 30 days of the date of the invoice will be reported to the next Executive Board meeting.

Each District Representative will be granted a block of Local visit days to be used at her discretion. These blocks of days to be based on one (1) day per Local assigned to the individual Rep.

Legislative

The August Board Meeting will be a five day meeting to enable more preparation time for the Annual General Meeting.

The following amendments were made to the Policy and Procedure Manual:

Amend Policy Committee 2.0 by adding the following:

Executive Board

Committee Recommendation

Recommendations to be presented by Committees of the Board, to the Annual General Meeting, shall be first presented to the August Board for discussion.

Changes or additions to the Policy and Procedure Manual are to be in the same mailout as the minutes or summaries for the meeting from which the changes or additions arose. (i.e. policy changes to follow Board Meeting with minutes or summaries).

Publications and Communications

Following the direction from North Central District, guidelines were established to help Locals set up their answering machines.

A "Negotiating Fact Line" is to be established. This is to be a 1-800 number with a message regarding negotiations updates available to all members.

The D.L.R. is to contact Locals in order to establish which Locals have access to fax machines and establishing the confidentiality of that machine as well as the number and hours the machine is available.

The Committee will investigate the cost of designing and making U.N.A. rings to be available for purchase by members on special order.

Steering

The 1992 Executive Board Meeting dates are as follows: March 3-6; May 26-29; August 17-21; and November 23-27

UNA will participate in the Provincial Nursing Action Plan as follows:

1. Executive Board to select three members of the Executive Board on Thursday, December 12*.
2. Membership - Sector participation is desired (Acute care, Long-Term Care, Community Based Care)

[*Andy LeBlanc, Darlene Wallace and Marilyn Coady will be the UNA Board Members attending the PNAP meetings.]

The UNA Executive Board supports J. Hibberd's undertaking in relation to P.R.C. The Executive Officers will correct misconceptions in J. Hibberd's

document of October 24, 1991, by requesting a meeting with J. Hibberd on her return to Alberta in January 1992.

The Executive Officers and the Director of Finance and Administrative Services are to develop standardization of information and assistance provided by Provincial Office prior to the Annual General Meeting. This will be provided to the next Executive Board.

The Executive Board endorses the D.L.R.'s recommendation on the assessment of the roles and time commitments of Local Executive as outlined in the D.L.R.'s Report to the Executive Board.

A 8 1/2 x 11 poster is to be sent to the Locals regarding the Parcels decision and the implementation of maternity leave benefit SUB Plan.

The UNA Executive Board endorses the implementation of a S.U.B. Plan.

Collective bargaining should not be considered completed until copies of the collective agreement are provided to the members. This remains a shared responsibility between the two staff departments.

The Education and Communications Officers are to review the media manual and make recommendations for revision to the Executive Offices and Directors. Target mailing to the Locals by the end of January 1992.

When UNA is approached by a group of unorganized nurses employed at an Employer with a certified UNA Local, UNA will first attempt to expand the existing Local rather than organizing a new Local.

Political Action

The Committee recommends two Miscellaneous Days be set aside for the Political Action Committee, to be used if necessary to attend activities. These two days are to be reassessed at the March Board Meeting. In the 1993 Budget the Finance Committee looked at the allocation of funds to the Political Action Committee.

The Political Action Manual be updated by appropriate staff and sent out in timely fashion to the Local Presidents.

The following letter was sent to Brian Mulroney Re: Health Care Crisis:

Dear Mr. Mulroney:

Re: Health Care Crisis

We are appalled at what is happening to Health Care under your administration. It is nothing short of scandalous. The continuing closure of Health Care Facilities and beds resulting directly from your Health Care policies and systematic elimination of Health Care payment to the Provinces is seriously affecting the quality, quantity and safety of Health Care Services.

Your refusal to discuss health care at the First Ministers Meeting is an example of your continuing disregard for the Health Care of the citizens of Canada. The recent announcement by the Quebec Minister of Health speaks volumes about the crisis all Canadians are facing.

We would expect with this crisis in Health Care you would meet with the Premiers and the Health Ministers of all provinces in the New Year.

We are neither whiners nor fools but highly taxed Canadian Citizens with the not unrealistic expectation for good Health Care. Your hidden agenda of Privatization of Health Care is not unknown and as citizens we will actively lobby against continued erosion of our Health Care System.

Sincerely,

Kathleen James

Chairperson of Political Action

United Nurses of Alberta

c Federal Minister of Health

Federal Opposition Parties

Provincial Premiers

Provincial Health Ministers

Alberta Opposition Parties

Alberta Opposition Health Care Critics

1992 Education Program

Workshops

The 1992 workshop program differs from the programs of previous years in that the Education Committee and the Executive Board have incorporated a Labour School into the 1992 Education Program. Therefore, fewer one-day workshops will be offered during the year.

January and February 1992

5 half-day workshops were held adjacent to District meetings. The participants included District Representatives from the Executive Board, Local Presidents or their representatives, members, and staff. Total number of participants was approximately 200.

The topics covered in these workshops was the effect of compulsory interest arbitration and essential services legislation on the process of collective bargaining.

October 1992

Four one-day provincial workshops have been scheduled adjacent to the UNA Annual Meeting. Each workshop will accommodate 50 participants and will focus on four different topics—contract interpretation and administration; professional responsibility and legal liability; grievance handling; and occupational health and safety. Total

number of participants will be 200 (Executive Board members, Local leadership, delegates to the Annual Meeting, and rank and file members).

January 1992 to December 1992

1. Workshops will be offered at the Local level throughout the year. These two to three-hour workshops are considered to be part of general Local servicing and, where possible, will be taught by the assigned Labour Relations Officer. Special emphasis will be placed on setting up and strengthening the ward representative system in each Local.
2. Throughout 1992 the UNA Labour Education Fund will continue to provide the financial opportunities for members to attend labour-related workshops and seminars offered by outside groups.

December 1992

A Special Board Orientation Workshop will be held in December for all members of the newly-elected Executive Board. Participants will number 25. The focus of this workshop will be on the roles and responsibilities of the Executive Board.

June 1992 - Labour School


The 1992 Education Program includes a three-day Labour School to be held in the month of June. The

School will accommodate 200 participants made up of Executive Board Members, Local executives, rank and file members, and staff. The agenda for the Labour School will include different workshops—some half-day, some full day, — and also short evening seminars. Topics to be addressed will include pensions, occupational health and safety, benefits, shared governance, local administration, grievance handling, contract interpretation and administration, effects of shift-work, and legal liability.

Board Observers

5 different members will be funded to attend each of the four (4) Board meetings as observers.

Educational Materials

The 1992 Education Program includes the production of a series of educational materials. The Education Committee, the Communications Committee and the Executive Board have directed the development and production of kits, manuals, standard documents, videos, and pamphlets. 

Our Mistake

Please be advised that Article 11.04 (b) of U.N.A.'s Constitution (as distributed in the NewsBulletin - Volume 15, Number 4) contained an error. The correct wording is as follows:

"The U.N.A. shall issue to each Chartered Local a monthly rebate. The monthly rebate of dues to the Chartered Locals shall be as follows:

For the first twenty (20) duespayers or part thereof of the Local the rebate shall be three dollars (\$3.00) per duespayer per month. For the next one hundred (100) duespayers or part thereof the rebate shall be two dollars (\$2.00) per duespayer per month. For all remaining duespayers the rebate shall be one dollar (\$1.00) per month. For less than thirty (30) duespayers the rebate shall be five dollars (\$5.00) per duespayer per month."

We apologize for any inconvenience this may have caused.

Two Jobs a Necessity Now for Most Families

Globe/CALM

THE NEXT time someone tries to tell you that women should be at home with their kids rather than at work earning a wage, wield these facts:

- For most families, two jobs are now a necessity of life. The earnings of most Canadian workers have stagnated or declined in the past 15 years. Only a dramatic increase in the number of women in the labour force has allowed families to maintain a survival wage.
- The average Canadian worker had earnings of \$31,109 in the mid-1970s. Fifteen years later, this figure had slipped to \$30,372 (after discounting for inflation), and they have fallen further during this recession.
- Some experts estimate that a family must work 65 to 80 hours a week to maintain the same income that a single breadwinner earned from 45 hours of work in the 1970s.
- Despite stress and sickness, most working parents can't afford to give up one of their jobs. If women were not employed in the labour market, the poverty rate among two-income families would double from 7.5 to 15.9 percent, according to the National Council of Welfare.

"This agreement shall remain in full force unless terminated by either Party upon six months' notice to the other Party."

Article 21.06 - The final article of the U.S.-Canada Free Trade Agreement.

Executive Board

President

Heather Smith
Home: 437-2477
Work: 425-1025

Vice-President

Sandie Rentz
Home: 346-4412
Work: 343-4422
(Recovery Room)

Secretary-Treasurer

Dale Fior
Home: 238-0810
Work: 541-8155

NORTH

Darlene Wallace*
Home: 765-2138
Work: 538-7400

Shelley Moug

Home: 539-0545
Work: 538-7488

NORTH CENTRAL

Bev Dick*
Home: 430-7093
Work: 484-8811 (671)

Carmelita Soliman

Home: 487-3812
Work: 482-8397

Valerie Holowach

Home: 992-0360
Work: 895-2248

Gina Kelland

Home: 477-5847
Work: 453-5441

Isabelle Burgess

Home: 462-7961
Work: 477-4817 (Stn. 17)

Gail Tymens

Home: 458-0503
Work: 478-9221 (215)

CENTRAL

Andrew LeBlanc*
Home: 346-8309
Work: 343-4448

Office: 342-2033

Marilyn Coady

Home: 352-8552
Work: 361-7131 (230)

SOUTH CENTRAL

Holly Heffernan*

Home: 255-0479
Work:

Kathy James

Home: 295-2442
Work: 670-1517

Karen Craik

Home: 236-5326
Work: 670-1315

Donnie Meehan

Home: 295-1609
Work: 541-2153

Keith Malkin

Home: 248-8805
Work: 229-7898

Pam Liegerot

Home: 230-8101
Work: 284-0215

SOUTH

Diane Poynter*

Home: 327-3501
Work: 382-6482

Sheila Bailey

Home: 327-3361
Work: 382-6280

Staff

Provincial Office

9th Floor
Park Plaza
9811 - 106 Avenue
Edmonton, Alberta
T5K 2P7
425-1025
1-800-252-9394
Fax: 426-2093

David Harrigan

Director of
Labour Relations

Barbara Surdykowski
L.R.O.

Lesley Haag, L.R.O.

Melanie Chapman, C.O.

Yessy Byl, L.R.O.

Murray Billett, L.R.O.

Nora Spencer, L.R.O.

Trudy Richardson, E.O.

Darlene Rathgeber

Director of Finance and
Administrative Services

Southern Alberta

Regional Office

505 Pacific Plaza
700 - 6th Avenue, S.W.
Calgary, Alberta T2P 0T8
237-2377
1-800-661-1802
Fax: 263-2908

Michael Mearns, L.R.O.

Marilyn Vavasour, L.R.O.

Laurie Coates, L.R.O.

Rick Lampshire
L.R.O. (Temp).

*Denotes District
Chairperson