

## Construction Labour Relations Association in Canada Les associations d'employeurs dans l'industrie de la construction au Canada

Joseph B. Rose

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### Résumé de l'article

Depuis 1969, il s'est produit de nombreux changements dans les systèmes de relations de travail dans l'industrie de la construction du Canada. Les changements les plus notables ont trait à l'adoption du régime d'accréditation des associations d'employeurs désireuses de devenir l'agent de négociation unique pour les entrepreneurs. Ce qui frappe encore davantage, ce sont les modifications apportées aux associations d'employeurs elles-mêmes. L'établissement d'une association d'employeurs consacrée spécialement aux relations de travail en Colombie Britannique a donné le signal de départ. Aujourd'hui, elle est en quelque sorte un modèle qu'on tend à imiter ailleurs.

Ceci signifie que l'on est en train de se départir du régime quasi historique selon lequel les entrepreneurs se groupaient en associations au plan local et suivant les catégories d'entreprises, ce qui entraînait par voie de conséquence la fragmentation des négociations collectives par métier, par secteur ou par zone territoriale. De plus, ces associations étaient faibles; elles ne pouvaient avoir d'ascendant sur leurs membres, surtout pendant les phases aiguës des négociations, ce qui empêchait l'établissement d'un consensus interne véritable et favorisait la vulnérabilité des organisations d'employeurs face aux syndicats.

On ne s'est guère penché sur les associations d'employeurs. C'est pourquoi l'Auteur de l'article précédent vise à faire connaître davantage les changements qui se sont produits depuis quelques années. Il traite de la tendance à mettre sur pied dans sept provinces d'un type d'organisation calquée sur ce qui existe en Colombie Britannique, sur la façon dont ces organisations sont dirigées et sont parvenues à s'assurer un certain degré de contrôle sur leurs membres. L'Auteur étudie ensuite comparativement la façon dont elles sont organisées et les objectifs qu'elles poursuivent en particulier en regard des changements survenus dans la province de Québec.

Dans son exposé, l'Auteur s'arrête d'abord quelque peu aux modifications législatives qui ont visé à donner aux associations d'employeurs un pouvoir capable de contrebalancer la force des syndicats de manière à assurer une certaine stabilité des relations de travail dans l'industrie de la construction. On estimait en effet que ce déséquilibre des forces entre les parties était responsable de l'état de malaise qui existait dans cette industrie où l'on arrivait souvent à la conclusion de conventions séparées à cause de l'incapacité des associations d'employeurs de contrôler leurs membres. Le système d'accréditation visait à donner plus d'unité et plus de cohésion aux associations d'employeurs. Selon ce système, une association d'employeurs accréditée négocie pour tous ses membres dans un secteur ou région donnée sans tenir compte de l'appartenance des membres à l'association. Il y a cependant deux exceptions. En Colombie Britannique, le volontarisme prévaut et seuls les entrepreneurs qui choisissent d'adhérer à l'association accréditée sont visés par l'accréditation. Au Québec, il s'agit d'un régime plus compliqué qui encourage la négociation multipartite et permet l'extension juridique de la convention collective. Dans l'ensemble du pays, ce nouveau régime en est encore au stade de formation, mais, en Ontario et en Alberta, l'accréditation a permis de freiner la fragmentation des associations d'employeurs.

La formation de l'association colombienne comporte trois aspects particuliers: elle est provinciale, regroupe les entrepreneurs généraux et les métiers spécialisés, enfin elle ne s'occupe que de relations de travail. Elle est aussi la plus ancienne des associations d'employeurs dont l'activité principale porte sur les salaires, les conditions de travail, ainsi que la date d'expiration des conventions. Ce ne fut pas, cependant, une tâche facile. Lors des négociations de 1970, 1972 et 1974, il y eut de longs arrêts de travail. En 1970 et en 1972, elle a maintenu l'unité des employeurs à l'occasion de deux lock-outs qui ont duré plus de trois mois chacun.

Fondée aussi en 1970, l'association albertaine ne s'oriente que lentement vers son objectif de devenir l'agent de négociation exclusif des entrepreneurs. Cette orientation a été entravée par la Loi des relations de travail et par le manque d'intérêt des entrepreneurs. Les certificats d'accréditation ne sont accordés que sur la base des droits acquis de telle sorte que seules les associations locales sont admissibles à l'accréditation. L'opposition vient surtout des entrepreneurs spécialisés. Toutefois, on remarque un certain progrès dans la coordination des objectifs. En 1973, l'Association représentait un grand nombre d'employeurs malgré l'opposition des syndicats.

L'Auteur analyse ensuite la situation en Ontario où la situation est particulièrement difficile à cause de la grande diversité économique et géographique qu'on y trouve. Cependant, l'association ontarienne progresse et elle comptait 1.200 membres en 1972, mais il y a des poches de résistance, notamment dans les régions de Toronto et d'Ottawa. La formation d'une association regroupant les entrepreneurs en construction de centrales électriques, qui en représente 235, est également néfaste, d'autant plus que cette association a réussi à négocier une première convention collective avec les syndicats de huit corps de métier. Dans son programme pour l'année 1975, l'Association estimait quand même être capable d'établir un certain nombre de normes pour l'ensemble de l'industrie et de coordonner les politiques des comités de négociations.

Au cours des dernières années, quatre autres associations provinciales ont été formées, soit en Nouvelle-Écosse, en Saskatchewan, au Manitoba et au Québec. L'Auteur cite brièvement les réalisations de ces associations qui se sont heurtées à une vive opposition de la part des syndicats, puis il s'attache à décrire plus longuement les changements qui se sont produits au Québec. Pour l'Auteur, le système de législation existant au Québec a fait disparaître beaucoup des difficultés qui ont amené les entrepreneurs des autres provinces à rechercher l'accréditation. Toutefois, le régime québécois comporte aussi des problèmes, et sa principale faiblesse résiderait dans le fait que toutes les associations participantes sont sur un même pied. Les dernières modifications à la Loi sur les relations de travail dans l'industrie de la construction, à la suite des recommandations de la Commission Chiché, ont amené le législateur à ne reconnaître qu'une seule association\* et à en faire l'unique agent de négociation pour l'ensemble du territoire de la province. La différence entre ce qui existe au Québec et ailleurs, c'est que au Québec la consolidation des associations d'employeurs a été forcée en quelque sorte, tandis que, dans les autres provinces, on s'oriente vers un régime identique, mais selon un système de volontariat.

De l'ensemble de son analyse, l'Auteur conclut que, à l'exception du cas du Québec, les employeurs de l'industrie de la construction s'orientent vers l'établissement d'un type d'associations qui tend à se rapprocher de celui qui existe en Colombie britannique.

\* Association / des entrepreneurs en construction du Québec-AEQQ—*Association of Building Contractors of Québec-ABCQ*

Association patronale formée de tous les entrepreneurs de l'industrie de la construction faisant affaire dans le Québec aux fins de s'occuper exclusivement des relations du travail dans cette industrie. Créée par l'article 32 de la Loi instituant l'Office de la construction et modifiant la Loi sur les relations du travail dans l'industrie de la construction sanctionnée le 27 juin 1975 (S.Q. 1975, c. 51), elle est l'unique agent patronal pour les fins de la négociation et de la conclusion d'une convention collective en vertu de la Loi sur les relations du travail dans l'industrie de la construction. (S.Q. 1968, c. 45). Tout entrepreneur de l'industrie de la construction est tenu d'adhérer à l'association. Les statuts et règlements ont été édictés par l'arrêté en conseil 145-76 du 21 janvier 1976 et prévoient quatre secteurs: a) secteur de la construction résidentielle; b) secteur de la construction industrielle; c) secteur de la voirie et des travaux de génie; d) secteur général comprenant tout employeur non identifiable aux secteurs déjà mentionnés. Le siège social de l'association est établi dans la ville de Montréal.

# Construction Labour Relations Associations in Canada

Joseph B. Rose

*This paper examines the relatively recent movement by employers in the construction industry toward province-wide associations specializing in labour relations. Beginning with the formation of the Construction Labour Relations Association of British Columbia (CLRA) it reviews the influences of contractor cooperation, union opposition and labour laws on the ability of these organizations to bring unity to contractor ranks and alleviate what has been described as the imbalance of power in construction labour relations. There is also an examination of the organizational characteristics of these CLRA-type organizations which reveals how they have been able to maintain control of members and reduce fragmentation*

Since 1969 there have been a number of significant legislative and organizational developments in the industrial relations system of the Canadian construction industry. Recent amendments to provincial labour statutes have sought to accommodate some of the unique aspects of the construction industry and facilitate industrial harmony. Most notable among these changes has been the adoption of accreditation, a representation scheme for employer's organizations wishing to become the exclusive bargaining agent for contractors. Even more dramatic than legislative changes have been the organizational and structural changes among contractor associations. The formation of the Construction Labour Relations Association of British Columbia (CLRA) in 1969 signalled the beginning of a new era in construction labour relations. CLRA became the first provincial association devoted exclusively to labour relations and signified the initial phase in the movement toward integrated province-wide collective bargaining. Today it has become the model for provincial contractor associations elsewhere.

ROSE, J.B., Assistant Professor, School of Administration, University of New Brunswick, Fredericton, N.B.

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Such developments are a significant departure from historical patterns. Traditionally contractors have conducted their labour relations through local general and specialty trade associations. Consequently, collective bargaining has been fragmented by trade, sector and geographic area. In addition, contractor associations were weak, because contractors' individual needs often clashed with organizational demands. As a result, these associations could not effectively control their members particularly during crucial phases in negotiations. Such intraorganizational strains hindered the process of «achieving internal consensus»<sup>1</sup> and increased the vulnerability of employer organizations to the unions' divide and conquer tactics.<sup>2</sup>

With few exceptions,<sup>3</sup> contractor associations have not been as extensively studied as building trades unions. The present article focuses specifically on organizational changes among contractor associations. It reports on: the movement by individual firms toward CLRA-type organizations in seven provinces; how these associations exercise direction and control of their members; and compares various organizational aspects of these associations, e.g., objectives and organizational structure. There is also a comparison between these developments and recent changes in Quebec's construction industry. The study is based on the constitutions and by-laws of the CLRA organizations and on interviews conducted with representatives of these associations, union and government officials and individual contractors.

#### LEGISLATIVE CHANGES

Accreditation legislation was initially proposed as one means of giving countervailing power to contractor associations in order to achieve stability in construction labour relations. Many argued that spiraling wage settlements and growing industrial unrest were the result of a shift in bargaining power in favour of building trades unions.<sup>4</sup>

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<sup>1</sup> Richard WALTON and Robert MCKERSIE, *A Behavioral Theory of Labour Negotiations*, (New York: McGraw-Hill, 1965), pp. 281-283.

<sup>2</sup> John CRISPO, «Ontario's Bill 167: Reform of the Status Quo», *Relations Industrielles*, XXVI, (January, 1972), p. 861.

<sup>3</sup> Peter ALLEN and Michael EAYRS, *Labour Relations for Construction Employers in Ontario*, (Waterloo: University of Waterloo, 1972) and H.W. Arthurs and John H.G. Crispo, «Countervailing Employer Power: Accreditation of Contractor Associations», in *Construction Labour Relations*, eds. H. Carl Goldenberg and John H.G. Crispo, (Ottawa: Canadian Construction Association, 1968), pp. 376-415.

<sup>4</sup> ARTHURS and CRISPO, *loc. cit.*

This imbalance was perpetuated by contractor associations which were incapable of controlling their members, i.e., they were unable to prevent them from breaking ranks and negotiating separate collective agreements. This process rendered many employer groups impotent in the face of rising union demands.

Accreditation sought to promote greater employer unity by prohibiting individual contractors from breaking away from their associations and negotiating « separate deals » with a trade union. Under this system, an accredited employers' organization bargains on the behalf of all unionized contractors (and all contractors who subsequently become unionized) in a particular trade(s), sector(s) and geographic region, regardless of whether they belong to the association. Two exceptions exist. In British Columbia voluntarism prevails and only those unionized contractors who choose to join the accredited body are covered by the accreditation certificate.<sup>5</sup> Quebec, on the other hand, has evolved a more complex system which encourages poly-party bargaining and permits the juridical extension of collective agreements. While accreditation schemes vary among provinces and collective bargaining under this system is still in its formative stages, the overwhelming consensus of opinion in British Columbia, Alberta and Ontario is that accreditation has helped employers' organizations minimize fragmentation.<sup>6</sup>

#### THE RE-ORGANIZATION OF CONTRACTORS

With the establishment of CLRA, a new phase in the evolution of employer associations was ushered in. It was unique in three respects: it was province-wide, it embraced general and trade contractors and it dealt exclusively with labour relations.<sup>7</sup> Previously, specialty and general contractor organizations operated on a local or regional basis. Most contractors belonged to what are known as « mixed » associations. Mixed associations had heterogeneous memberships composed of

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<sup>5</sup> Joseph B. ROSE, « Accreditation and the Construction Industry: Five Approaches to Countervailing Power », *Relations Industrielles*, XXVIII (July, 1973), pp. 565-582.

<sup>6</sup> Manitoba and Saskatchewan have not adopted accreditation legislation. In Nova Scotia and Newfoundland, no accreditation certificates have been issued whereas in New Brunswick, eight accreditation orders have been made, but as yet there is no CLRA-type of organization.

<sup>7</sup> There were exceptions. The Mechanical Contractors Association of British Columbia had established MIRA (Mechanical Industrial Relations Association) to handle labour relations only.

contractors (union and non-union), suppliers and manufacturers and were engaged in such wide-ranging activities as education, training, legislative matters, operating bid depositories and labour relations. Each of these factors contributed to the ineffectiveness of mixed associations in collective bargaining and merit further enunciation.

Considering the independent character and small size of most construction firms<sup>8</sup> and the highly competitive nature of the industry, it is difficult to imagine, even during the best of times, agreement among individual members on association policy. This has been especially true with respect to labour relations, an issue of crucial importance to unionized contractors and of lesser consequence to others. For example, the Construction Association of Nova Scotia estimated that at one point fewer than half of their 375 members were on-site unionized contractors. As a result, labour relations in mixed associations occupied a low priority, was handled on a part-time basis and very little expertise was developed. Collective bargaining policy also caused internecine quarreling among unionized members. Those contractors who felt they could make a better deal for themselves rarely hesitated to go it alone. And why not? Their associations were powerless to control such actions since the threat of sanctions usually produced counter-threats to quit the organization. Even efforts to get members to voluntarily assign their bargaining rights to the association were met with disdain. Consequently, the poorly organized and often ill-prepared mixed associations were no match for their union counterparts.

The CLRA concept was unique and provided a glimmer of hope to those frustrated by existing approaches to collective bargaining. Today more than 2,500 contractors belong to CLRA-type organizations. A review of these developments and the present status of such organizations is presented below.

### **British Columbia**

CLRA is the oldest of the province-wide associations devoted exclusively to labour relations and represents more than 850 companies in British Columbia (accounting for 85 percent of non-residential construction). It was formed when mounting pressure from the purchasers of

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<sup>8</sup> Figures for CLRA show that 73.7 percent of their members employ fewer than fifteen employees. C.J. Connaghan, «Labour Relations in the Construction Industry on Canada's West Coast — How Contractors Regained Control of Their Industry», 1972, p. 13. (mimeographed).

construction and the dismal performance in 1968 negotiations prompted a small number of dedicated contractors to persuade the industry that

a more effective job of consolidating labour relations activities was required.<sup>9</sup> As the bargaining agent for contractors since 1970, CLRA has successfully coordinated labour relations policy on wages, expiration dates and other conditions of employment. This has been achieved through an organizational structure which integrates trade divisions and geographic areas, and which utilizes professional negotiators.

The task has not been easy, however. Negotiations in 1970, 1972 and 1974 resulted in prolonged work stoppages. CLRA drew national attention in 1970 and 1972 when it successfully maintained a united front during two lockouts lasting more than three months apiece. Since then it has continued to mature and progress has been made toward achieving multi-trade bargaining (ten unions bargained together in 1974). While the guiding principles of CLRA have been embraced by similar organizations elsewhere, none has acquired the same amount of organizational stability and bargaining experience.

### **Alberta**

Formed in 1970, the Alberta Construction Labour Relations Association (ACLRA) has slowly been moving toward becoming the exclusive bargaining agent for Alberta contractors. Its path has been impeded by the Alberta Labour Act and a lack of unanimity among contractors about joining ACLRA. Initially accreditation certificates were awarded on the basis of existing bargaining rights; this meant that only local associations were eligible to become accredited. Subsequent amendments to the law allowed for the transfer of accreditation certificates and opened the door for the ACLRA to apply directly to be accredited. To date, ACLRA holds four accreditations and has seven other applications pending.

The overwhelming support for a single bargaining authority which existed in British Columbia is not as evident in Alberta. This is amply illustrated by the reluctance of several specialty groups, e.g., the electrical and sheet metal contractors, to join ACLRA. However, some progress has been made to coordinate objectives through joint bargaining committees. In addition, affiliate membership status in ACLRA has been created for associations, notwithstanding the fact that individual

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<sup>9</sup> *Ibid.*, pp. 2-3.

association members may be admitted to regular membership, to provide a liaison with trade groups who have been hesitant to urge their members to join. Such accommodations appear to be part of a «phasing-in» process leading to eventual membership for all contractors in ACLRA.

ACLRA's involvement in collective bargaining has not been as extensive as CLRA's. In 1973, ACLRA did represent numerous contractors in negotiations despite some union resistance to recognize them as bargaining agent. Considering the heavy bargaining schedule in 1975, ACLRA will be out to prove its ability to effectively represent contractors and restore stability in labour relations. The fact that a number of unions are vehemently opposed to ACLRA should make this challenge even more formidable.

### Ontario

The notion of forming a provincial bargaining authority in a province with as much geographic and economic diversity as Ontario seems at first blush to be an organizational nightmare.<sup>10</sup> However, the Construction Labour Relations Association of Ontario (CLRAO) is hopeful of becoming the umbrella organization for Ontario contractors. Formed in 1972, CLRAO now has approximately 1,200 members. These membership figures must be viewed cautiously since pockets of resistance to CLRAO exist in Toronto and Ottawa. Other developments may prove equally harmful. The recent formation of the Electrical Power Systems Construction Association (EPSCA), which represents Ontario Hydro and all of its contractors in the electrical power sector of the industry, may choose to operate independently of CLRAO. Recently EPSCA, which represents 235 contractors, successfully negotiated its first collective agreement with eight building trades,<sup>11</sup> a step which may eventually lead to an application for accreditation.

Certainly 1975 will be a pivotal year for CLRAO, as most major collective agreements will be expiring.<sup>12</sup> CLRAO expects to do the following: establish bargaining guidelines for the industry; take steps to see that bargaining occurs under its auspices where it represents large segments of area trade groups; and coordinate and ensure that negotia-

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<sup>10</sup> There are no fewer than 300 collective agreements in the province's construction industry.

<sup>11</sup> John LYMBURNER, «Eight Trades Ratify Hydro Labour Pact», *Daily Commercial News*, (Toronto), August 30, 1974.

<sup>12</sup> Canada Department of Labour, *1975 Calendar of Expiring Collective Agreements*, (Ottawa: Collective Bargaining Division, 1974), pp. 90-102.

tions are carried out in accordance with the policies of its negotiating committees. Its performance will be closely watched by its ardent supporters and foes alike and may signal the future direction of the organization.

### Other Provinces

Four other provincial labour relations associations have been formed in recent years.<sup>13</sup> In each instance, these organizations have brought a measure of unity to contractor ranks despite union resistance and some lengthy work stoppages. For example, the Saskatchewan Council was able to maintain a united front during a two-month strike while suffering only a minimum number of defections;<sup>14</sup> the Bureau (Nova Scotia) was involved in a two-month dispute in 1973 which resulted in the first lockout in the history of the Nova Scotia construction industry. It is noteworthy that the formation of the Winnipeg Council had less to do with employer fragmentation than a recognition of the need for a specialized organization to handle the growing complexities of construction labour relations.<sup>15</sup>

In general, there has not been as much hesitancy to join CLRA organizations in these provinces as there has been in Alberta and Ontario. There has, however, been opposition to the Bureaus's application for accreditation by several national contractors and international unions who do not want their international contracts tampered with, e.g., boilermakers' agreement. Since their initial application was rejected, the Bureau has been in the process of submitting a new application.<sup>16</sup>

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<sup>13</sup> The Saskatchewan Construction Association Labour Relations Council, the Winnipeg Builders Exchange Labour Relations Council, the Construction Association Management Labour Bureau of Nova Scotia and the Newfoundland Construction Labour Relations Association. The latter organization has only recently been formed and has no collective bargaining experience.

<sup>14</sup> Ned POWERS, «Strikes, Rain Bode Economic Ill», *Globe and Mail*, (Toronto), May 25, 1970, p. 8.

<sup>15</sup> For an analysis of the organizational stability of Winnipeg contractors, see George Sayers Bain, *Industrial Relations Legislation and the Manitoba Construction Industry*, (Winnipeg, 1971), pp. 31-32.

<sup>16</sup> The application was turned down because the Bureau was not «a properly constituted employers' organization controlled by its members.» This was based on the lack of constitutional provisions guaranteeing every member of the Bureau a vote in the election of the Board of Directors and the failure to specify that general meetings must be held annually.



## Québec

Although the trend toward CLRA organizations has not penetrated Quebec, there are a number of unique aspects of their system worth examining. The Construction Industry Labour Relations Act (1968) contained the first accreditation system ever to be adopted in Canada. It explicitly designated five employers' associations to represent contractors in the province and made provisions that others might be recognized.<sup>17</sup> The purpose of the legislation was to bring «unity and order» to the industry by stabilizing union and employer organizations and to encourage a more centralized bargaining structure.<sup>18</sup> This approach overcame many of the problems which had prompted contractors in other provinces to seek accreditation.

Since only one agreement can be signed for an area, or for the whole province, the tactics of divide and rule and leapfrogging by which unions are alleged to have eroded the solidarity and power of employers' associations do not have the same chance to succeed as they would elsewhere where independents may still operate.<sup>19</sup>

However, this scheme has also had its problems. A major weakness has been the fact that all designated associations (employee and employer) were placed on an «equal footing» and each one had veto power over the signing of an agreement. This veto power was responsible for the failure of the contracting parties to reach an accord in 1970. Both union rivalry and antagonism among some of the employers associations nearly produced a similar outcome in 1973.<sup>20</sup>

Bill 9 (1973) substantially modified the Construction Industry Labour Relations Act by shifting the locus of bargaining from the regional to the provincial level. Instead of being designated in the statute, employers' associations (and employee associations) were to be recognized as representative if they had jurisdiction «throughout the province and in respect of all the construction trades and occupations.»<sup>21</sup>

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<sup>17</sup> Two union associations, the Confédération des syndicats nationaux and the Quebec Federation of Labour, were also deemed to be representative. Quebec Construction Industry Labour Relations Act (1968), Section 5.

<sup>18</sup> Gérard HÉBERT, «Industry-Wide Bargaining By Legislation: The Quebec Construction Industry,» *Relations Industrielles*, XXVI (January, 1971), p. 121.

<sup>19</sup> H.D. WOODS, *Labour Policy in Canada*, (2nd ed.; Toronto: Macmillan of Canada, 1973), p. 274.

<sup>20</sup> Gérard HÉBERT, «Bill 9 and Labour Relations in the Quebec Construction Industry,» *Relations Industrielles*, XXVIII (October, 1973), p. 714.

<sup>21</sup> The two exceptions are the Corporations of Master Electricians and Master Plumbers. The representativeness of employers' association is determined by averaging the percentages of its membership, wages paid and hours worked to total industry statistics on membership, wages and hours. *Ibid.*, pp. 714-715.

The law also supplanted veto power with a new system of majority rule. This required an agreement to be «signed by one or more associations which are representative on each side to a degree of more than 50%» before it could be considered a collective agreement and eventually become a decree.<sup>22</sup> In other words, no single employers' association could veto an agreement unless it had majority status (no employer group has a degree of representativeness exceeding 30 percent).

Although the Quebec system establishes provincial poly-party bargaining, Bill 9 did not provide assurances that contractor unity would be enhanced. Under the majority rule principle (which is preferable to veto power), contractor groups would have to join forces to make the system work. Hébert suggests such alliances pose two immediate dangers. First, such a system may give majority groups tremendous power over minority groups and second, majority groups could act collusively and pass on the excessive costs of collective agreements to the consumers of construction services. These fears were not diminished by the findings of the Provincial Inquiry into Construction Union Freedoms (Cliche Commission).<sup>23</sup>

In response to a number of recommendations made by the Cliche Commission, the Construction Industry Labour Relations Act was amended in June 1975. Of particular significance is the requirement that every employer in the construction industry must become a member of a single labour relations organization — The Association of Building Contractors of Quebec (ABCQ).<sup>\*</sup> The legislation explicitly establishes

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<sup>22</sup> *Ibid.*

<sup>23</sup> Richard CLEROUX, «The Labour Probe that Indicted Quebec Society as a Whole», *Globe and Mail*, March 18, 1975, pp. 1, 2.

<sup>\*</sup> Association of Building Contractors of Quebec (ABCQ).

Employers association formed by all contractors doing business in the Quebec construction industry for the exclusive purpose of labour relations in that industry. The ABCQ was created by section 32 of the Act to establish the Office de la construction du Québec and to again amend the Construction Industry Labour Relations Act assented to June 27, 1975. The ABCQ is the sole collective bargaining agent on the management side of the Quebec construction industry. All contractors of the construction industry must join the ABCQ. Statutes and by-laws of this association were promulgated by Order in Council 145-76 dated January 21, 1976 and divides the industry in four sectors: a) residential construction sector, b) industrial construction sector, c) road construction and engineering works sector, d) general sector comprising all employers who do not belong to sectors above mentioned. The Head Office of the association is in the city of Montréal.

ABCQ as the sole bargaining agent for contractors and requires the representative employers' associations to submit the constitution and by-laws of the new Association to the Lieutenant-Governor in Council for approval. In addition, the law establishes minimum standards governing the internal affairs of ABCQ, e.g., the election of officers.

It would appear that the serious problems experienced by contractors in 1970 and 1973 negotiations and the findings of the Cliche Commission prompted the government to amalgamate Quebec's existing contractor associations. One major distinction exists between the industrial relations system in Quebec construction and the system elsewhere in Canada. It would appear that the legal framework governing construction goes considerably further in promoting multi-party bargaining at the provincial level. Although more centralized bargaining has not reduced fragmentation among contractor associations, recent legislative changes demonstrate the willingness of the government to impose compulsion as a means of creating a single employers' association. This is in sharp contrast to a number of CLRA organizations which have achieved unity and strength on a voluntary basis.

#### Summary

Contractors outside Quebec are in varying stages of organizing themselves into CLRA-type organizations. The transition from local or regional mixed associations to a single, province-wide bargaining agent has been aided or impeded by the extent of contractor cooperation, union opposition and the legal framework governing construction labour relations. In most provinces, the initial collective bargaining experiences of CLRA groups have been marked by prolonged industrial disputes. To a certain extent, these conflicts reflect growing pains associated with more centralized bargaining, which threaten the autonomy, prerogatives and jealousies of local contractors and unions alike. Despite these problems a considerable degree of unity has developed among contractors. To better understand how the CLRA-type of organization functions, let us turn to an examination of the organizational characteristics of these associations.

#### ORGANIZATIONAL CHARACTERISTICS

Three aspects of CLRA organizations are briefly examined: objectives, rights and obligations of members and organizational structure.

The discussion is intended to be general and does not consider all of the permutations which exist among these associations.<sup>24</sup>

### **Objectives**

With few exceptions, the principles established by CLRA have been standardized across Canada. The overriding objective has been to adopt methods of promoting and regulating sound labour relations on behalf of its members.<sup>25</sup> This can be accomplished by becoming accredited, establishing «policies for the uniform content, administration and interpretation of collective agreements,» advising and assisting members on grievances and other related proceedings (e.g., labour boards), conducting research and distributing statistical data on construction, and initiating and maintaining liaison with other industries and employer groups. The explicit aim of standardizing terms and conditions of employment and the administration of agreements throughout the industry carries with it an implicit long-run objective. Ideally, most CLRA organizations would like to centralize bargaining structure to the point of achieving provincial single trade or multi-trade bargaining. While such a development is occurring in British Columbia, it is recognized that similar trends are a long way off in other provinces, e.g., Ontario.

### **Rights and Obligations of Members**

The constitutional rights of contractors include the right to attend general meetings, to vote for members of the policy making board or council and to participate in ratification votes of collective bargaining settlements. Voting embraces the one member, one vote principle, ensuring small contractors that they will not be dominated by large firms. These rights carry with them certain responsibilities which enable CLRA groups to effectively control their members to a far greater extent than mixed associations previously did. For example, a member must agree to assign his bargaining rights to the association and be bound by all collective agreements it enters into. In addition, the member must agree not to negotiate or enter into any agreement, undertaking or understanding — either written or oral — with a trade union; nor can he employ or continue to employ union members when directed not to do so by the associations, e.g., during a lockout.<sup>25</sup>

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<sup>24</sup> This section of the paper is based on the constitution and by-laws of each of the provincial associations.

<sup>25</sup> Accredited employers' organizations are further protected since the law extends these prohibitions to non-association members.

Failure to comply with these provisions can result in a legal suit or a request for injunctive relief. Finally, resignations from the association are normally prohibited immediately preceding and during negotiations.

### **Organizational Structure**

Three organizational levels exist in British Columbia's CLRA. Council is the policy making body of the association and is comprised of delegates from each trade division of the industry and each geographic area of the province. This is to ensure the broadest and fullest representation of members. Council is also responsible for hearing the appeals of members, approving election procedures, and electing the Board of Governors, who perform the administrative duties of the association. In some associations, e.g., CLRAO, organizational structure is more streamlined with the Directors assuming policy making duties and administrative matters being delegated to an Executive Committee. Actual negotiations are handled by the Director of Labour Relations and his negotiators, although outside British Columbia negotiations are more likely to be handled by the trade division in liaison with a member of the association staff. Each trade division normally has a trade advisory committee which is responsible for conducting ratification votes, advising division members of the terms of collective agreements negotiated by the association and making submissions to the Director for referral to Council. While Council establishes general guidelines for collective bargaining it has no power to impose settlements on trade divisions. Thus the trade divisions enjoy considerable autonomy in labour relations matters.<sup>26</sup>

### **CONCLUSION**

Over the past five years the CLRA approach to labour relations has brought a measure of organizational stability to contractor ranks which have long been divided. This has been achieved through a more coordinated and professional approach to bargaining and the ability of CLRA groups to exercise direction and control over their members. Some of the underlying causes of intraorganizational problems have

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<sup>26</sup> Since trade divisions have representatives on Council, it is apparent that sufficient opportunities exist to iron out differences of opinion should they arise. An important exception is the Bureau in Nova Scotia which vests ratification and lockout decisions with its Directors.

been minimized by constitutional procedures providing for the assignment of bargaining rights and guaranteeing full and equal participation of members in labour relations matters. While the long-run prospects for province-wide and/or multi-trade bargaining remain unclear, one thing is certain: the era of provincial contractor labour relations associations is at hand.

### **Les associations d'employeurs dans l'industrie de la construction au Canada.**

Depuis 1969, il s'est produit de nombreux changements dans les systèmes de relations de travail dans l'industrie de la construction du Canada. Les changements les plus notables ont trait à l'adoption du régime d'accréditation des associations d'employeurs désireuses de devenir l'agent de négociation unique pour les entrepreneurs. Ce qui frappe encore davantage, ce sont les modifications apportées aux associations d'employeurs elles-mêmes. L'établissement d'une association d'employeurs consacrée spécialement aux relations de travail en Colombie Britannique a donné le signal de départ. Aujourd'hui, elle est en quelque sorte un modèle qu'on tend à imiter ailleurs.

Ceci signifie que l'on est en train de se départir du régime quasi historique selon lequel les entrepreneurs se groupaient en associations au plan local et suivant les catégories d'entreprises, ce qui entraînait par voie de conséquence la fragmentation des négociations collectives par métier, par secteur ou par zone territoriale. De plus, ces associations étaient faibles; elles ne pouvaient avoir d'ascendant sur leurs membres, surtout pendant les phases aiguës des négociations, ce qui empêchait l'établissement d'un consensus interne véritable et favorisait la vulnérabilité des organisations d'employeurs face aux syndicats.

On ne s'est guère penché sur les associations d'employeurs. C'est pourquoi l'Auteur de l'article précédent vise à faire connaître davantage les changements qui se sont produits depuis quelques années. Il traite de la tendance à mettre sur pied dans sept provinces d'un type d'organisation calquée sur ce qui existe en Colombie Britannique, sur la façon dont ces organisations sont dirigées et sont parvenues à s'assurer un certain degré de contrôle sur leurs membres. L'Auteur étudie ensuite comparativement la façon dont elles sont organisées et les objectifs qu'elles poursuivent en particulier en regard des changements survenus dans la province de Québec.

Dans son exposé, l'Auteur s'arrête d'abord quelque peu aux modifications législatives qui ont visé à donner aux associations d'employeurs un pouvoir capable de contrebalancer la force des syndicats de manière à assurer une certaine stabilité des relations de travail dans l'industrie de la construction. On estimait en effet que ce déséquilibre des forces entre les parties était responsable de l'état de malaise qui existait dans cette industrie où l'on arrivait souvent à la conclusion de conventions séparées à cause de l'incapacité des associations d'employeurs de contrôler leurs membres. Le système d'accréditation visait à donner plus d'unité et plus de cohésion aux associations d'employeurs. Selon ce système, une association d'employeurs accréditée négocie pour tous ses membres dans un secteur ou région donnée sans tenir compte de l'appartenance des membres

à l'association. Il y a cependant deux exceptions. En Colombie britannique, le volontarisme prévaut et seuls les entrepreneurs qui choisissent d'adhérer à l'association accréditée sont visés par l'accréditation. Au Québec, il s'agit d'un régime plus compliqué qui encourage la négociation multipartie et permet l'extension juridique de la convention collective. Dans l'ensemble du pays, ce nouveau régime en est encore au stade de formation, mais, en Ontario et en Alberta, l'accréditation a permis de freiner la fragmentation des associations d'employeurs.

La formation de l'association colombienne comporte trois aspects particuliers: elle est provinciale, regroupe les entrepreneurs généraux et les métiers spécialisés, enfin elle ne s'occupe que de relations de travail. Elle est aussi la plus ancienne des associations d'entrepreneurs dont l'activité principale porte sur les salaires, les conditions de travail, ainsi que la date d'expiration des conventions. Ce ne fut pas, cependant, une tâche facile. Lors des négociations de 1970, 1972 et 1974, il y eut de longs arrêts de travail. En 1970 et en 1972, elle a maintenu l'unité des employeurs à l'occasion de deux lock-outs qui ont duré plus de trois mois chacun.

Fondée aussi en 1970, l'association albertaine ne s'oriente que lentement vers son objectif de devenir l'agent de négociation exclusif des entrepreneurs. Cette orientation a été entravée par la Loi des relations de travail et par le manque d'intérêt des entrepreneurs. Les certificats d'accréditation ne sont accordés que sur la base des droits acquis de telle sorte que seules les associations locales sont admissibles à l'accréditation. L'opposition vient surtout des entrepreneurs spécialisés. Toutefois, on remarque un certain progrès dans la coordination des objectifs. En 1973, l'Association représentait un grand nombre d'employeurs malgré l'opposition des syndicats.

L'Auteur analyse ensuite la situation en Ontario où la situation est particulièrement difficile à cause de la grande diversité économique et géographique qu'on y trouve. Cependant, l'association ontarienne progresse et elle comptait 1,200 membres en 1972, mais il y a des poches de résistance, notamment dans les régions de Toronto et d'Ottawa. La formation d'une association regroupant les entrepreneurs en construction de centrales électriques, qui en représente 235, est également néfaste, d'autant plus que cette association a réussi à négocier une première convention collective avec les syndicats de huit corps de métier. Dans son programme pour l'année 1975, l'Association estimait quand même être capable d'établir un certain nombre de normes pour l'ensemble de l'industrie et de coordonner les politiques des comités de négociations.

Au cours des dernières années, quatre autres associations provinciales ont été formées, soit en Nouvelle-Écosse, en Saskatchewan, au Manitoba et au Québec. L'Auteur cite brièvement les réalisations de ces associations qui se sont heurtées à une vive opposition de la part des syndicats, puis il s'attache à décrire plus longuement les changements qui se sont produits au Québec. Pour l'Auteur, le système de législation existant au Québec a fait disparaître beaucoup des difficultés qui ont amené les entrepreneurs des autres provinces à rechercher l'accréditation. Toutefois, le régime québécois comporte aussi des problèmes, et sa principale faiblesse résiderait dans le fait que toutes les associations participantes sont sur un même pied. Les dernières modifications à la Loi sur les relations de travail dans l'industrie de la construction, à la suite des recommandations de la Commission Cliche, ont amené le législateur à ne reconnaître qu'une seule association \*

\* Association *f* des entrepreneurs en construction du Québec-AECQ — *Association of Building Contractors of Québec-ABCQ*

Association patronale formée de tous les entrepreneurs de l'industrie de la con-

et à en faire l'unique agent de négociation pour l'ensemble du territoire de la province. La différence entre ce qui existe au Québec et ailleurs, c'est que au Québec la consolidation des associations d'employeurs a été forcée en quelque sorte, tandis que, dans les autres provinces, on s'oriente vers un régime identique, mais selon un système de volontariat.

De l'ensemble de son analyse, l'Auteur conclut que, à l'exception du cas du Québec, les employeurs de l'industrie de la construction s'orientent vers l'établissement d'un type d'associations qui tend à se rapprocher de celui qui existe en Colombie britannique.

struction faisant affaire dans le Québec aux fins de s'occuper exclusivement des relations du travail dans cette industrie. Créée par l'article 32 de la *Loi instituant l'Office de la construction et modifiant la Loi sur les relations du travail dans l'industrie de la construction* sanctionnée le 27 juin 1975 (S.Q. 1975, c. 51), elle est l'unique agent patronal pour les fins de la négociation et de la conclusion d'une convention collective en vertu de la *Loi sur les relations du travail dans l'industrie de la construction*. (S.Q. 1968, c. 45). Tout entrepreneur de l'industrie de la construction est tenu d'adhérer à l'association. Les statuts et règlements ont été édictés par l'arrêté en conseil 145-76 du 21 janvier 1976 et prévoient quatre secteurs: a) secteur de la construction résidentielle; b) secteur de la construction industrielle; c) secteur de la voirie et des travaux de génie; d) secteur général comprenant tout employeur non identifiable aux secteurs déjà mentionnés. Le siège social de l'association est établi dans la ville de Montréal.

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