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Labour Unions in Canada

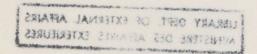
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Labour Unions in Canada

Prepared in the Labour Data Branch, Labour Canada, Ottawa. Dept. of Foreign Affairs Min. des Affaires étrangères

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Canadian labour unions have grown steadily to their present strength of some 3.3 million members. This figure represents 39 per cent of non-agricultural paid workers and 31 per cent of the civilian labour force of the country.¹

Union members are widely dispersed throughout Canada, although they are, of course, concentrated in the most industrialized areas. Nearly two-thirds of the total membership is in the provinces of Quebec and Ontario.² Of the urban centres, Toronto leads with 459,000 union members, followed by Montreal with 439,000 and Vancouver with 269,000.

Among the industries, the largest numbers of union members are employed in manufacturing, followed by community, business and personal services, although, in the proportion of its employees belonging to unions, public administration leads the way at 69.9 per cent, followed by construction (68.7 per cent) and forestry (64.1 per cent). Membership strength is lowest in agriculture and in finance, insurance and real estate.³

Union organizations have existed in Canada since the beginning of the nineteenth century but the movement was fragmentary until the latter part of that century for various reasons. First, the economy was largely agricultural

and individualistic in nature. Second, the population was thinly dispersed over a vast territory and transportation and communication systems were only partially developed. Third, the work force was made up of people having significant racial, religious and linguistic differences. Fourth, union activity was hampered by the British common law doctrine that held unions to be conspiracies in restraint of trade.

It was only in the last three decades of the century that unified bonds were formed in the shape of national and international unions covering the whole country, local central organizations linking unions in a locality, and a national central organization. Even then, and even after certain legal restrictions had been removed, unionization proceeded at a slow pace. Unions tended to concentrate on the organization, by craft, of skilled workers and, for the most part, the fast-growing work force of semi-skilled and unskilled workers remained outside the movement until well into the twentieth century. In the late 1930s, spurred on by the organizing efforts of newly-formed industrial unions, a period of expansion began, which, apart from a slackening off in the early 1960s, has continued to this day.

From its beginnings, the Canadian labour movement has had close ties with that of the United States; in its formative years, immigrant workers from Britain contributed substantially to the organization of employees in

¹ See Table 1, p. 10.

² See Table 5, p. 14.

³ See Table 6, p. 15.

this country. These influences, however, have been incorporated into a movement that has a distinct Canadian character.

The local union, made up of employees in a particular plant or locality, is the basic unit of labour organization. Its members may be drawn from a particular occupation or trade (craft union) or may include all the workers of a plant or industry without regard to occupation or trade (industrial union). They pay dues directly to their locals and elect officers who, in turn, are responsible for business matters, including the relations between their local and the employer or employers whose employees it represents. The members exercise their rights in regular meetings of the local organization, which may have anywhere from one to several thousand members. For the most part, a local is a subsidiary but integral part of a larger union organization, which may be international, national or regional in scope. Some locals are, however, chartered bodies of one of the central labour congresses, and a few exist as independent entities in the sense that they are not affiliated with any other labour organization.

Just under half (47.4 per cent) of the organized workers in Canada are in locals chartered by international unions, i.e. unions with headquarters in the United States but with locals in both that country and Canada. Fifty per cent are in national or regional unions that confine their activities to this country. The remainder are in locals directly chartered by a central labour body (.8 per cent) or are independent locals (1.8 per cent).4

International, national and regional unions organize and charter locals in industries or trades as defined in their constitutions. They are responsible for laying down general policy, assisting locals in the conduct of their affairs and co-ordinating their activities. Funds are obtained through *per capita* taxes, and regular conventions of delegates from the locals are held at which general policy is decided upon and officers are elected.

Between the local and its headquarters union organization a variety of structures may exist, according to the type of union and the industry and occupations which it serves. In the railway unions, for example, joint boards exist for particular lines, and in some of the industrial unions, such as the United Automobile Workers. councils have been established to deal with particular sections of the industry. Some national unions have established subsidiary provincial and district councils to serve the needs of locals on a geographical basis. Some international unions have established Canadian district or regional councils to act on behalf of their Canadian membership as a whole, while others divide their Canadian membership into two or more districts. In some cases.

⁴ See Table 3, p. 12.

Canadian locals are included in the same district organizations as locals in bordering American states. The tendency, however, is to establish Canada-wide districts having a substantial degree of autonomy.

There are two principal central organizations of labour at the national level, the Canadian Labour Congress (CLC) and the Confederation of National Trade Unions (CNTU). They coordinate the activities of their affiliates and act on behalf of the union movement in relations with governments and with organized workers internationally. Both the CLC and the CNTU hold biennial conventions that are attended by delegates from their affiliates, formulate general policies and elect officers. Their funds are obtained through a per capita tax on affiliates. Affiliates of the CLC are located in every province of Canada. They account for about two-thirds of Canadian union membership. Most of them are international unions, which are also affiliated with the AFL-CIO in the United States. The CNTU, whose affiliates operate mainly in the province of Quebec and are not international unions, encompasses about 5.5 per cent of total Canadian union membership. A third central organization, the Congrès des syndicats démocratiques, was formed in 1972. It is composed of a number of organizations formerly affiliated with the CNTU. The newest of the national

federations is the Confederation of Canadian Unions, formed in 1969, which includes only about 1 per cent of all union members. The remaining members are in unions not affiliated with any of these organizations.⁵

The CLC has established a provincial federation of labour in each of the provinces. These bodies co-ordinate the activities of the locals of affiliates at the municipal and provincial levels and are financed by a *per capita* tax on affiliates within their jurisdictions.

In matters of political activity, the CLC has a close relation to the New Democratic Party, to which many of its member unions are affiliated. The CNTU has not established ties with any specific political party.

Through the CLC and the CNTU, most Canadian unions are linked with organized workers in other parts of the world. The CLC is a member of the International Confederation of Free Trade Unions, which has affiliates in almost 100 countries, and the CNTU is an affiliate of the World Confederation of Labour, composed of labour organizations in more than 70 countries. Some national and international unions are also members of International Trade Secretariats (ICFTU) such as the International Transport Workers Federation, or of a Trade International (WCL), such as the International Federation of Christian Metal Workers Unions.

⁵ See Table 2, p. 11.

Labour relations law in Canada is complicated by the constitutional division of powers between the federal and provincial governments. With respect to labour matters, the jurisdiction of the federal Parliament extends over a relatively small number of industries, mainly navigation and shipping, banking, interprovincial and international transportation, broadcasting and certain other fields that are "declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more provinces". Provincial governments have jurisdiction over labour matters in other segments of industry, including manufacturing, mining, construction and trades. The result is that there are 11 jurisdictions having authority over labour matters: the federal and each of the ten provinces. The territorial governments of the Yukon and Northwest Territories have similar legislative powers (although not exclusive). Ordinances dealing with employment standards, fair practices and apprenticeship have been adopted in both territories. Even with this division of authority, legislation has developed along reasonably consistent lines.

Three broad principles, developed over a period of more than a hundred years, are ingredients of the Canadian system of labour relations legislation. First, as a result of legislative changes beginning in the 1870s and modelled

on earlier British legislation, the common law restraint on unions gave way to legal recognition of the right of emplovees to associate in union organizations. Second, legislation passed early in this century made provision for governmental conciliation services and made work stoppages unlawful until the conciliation procedure has been complied with. Third, based in large measure on developments in the United States, positive encouragement for the process of collective bargaining was embodied in legislation adopted in various Canadian jurisdictions in the 1940s.

In 1872, Parliament, following upon strike activity and the imposition of jail sentences on the union leaders, passed the Trades Union Act, which, like a British act of the previous year, removed from trade unions the common law liability for prosecution in restraint of trade. In 1876, the Criminal Law Amendment Act made peaceful picketing legal. Thus major legal obstacles to participation by employees in the activities of unions were removed.

Another step in the development of Canadian industrial relations law was the passage in 1907 of the Industrial Disputes Investigation Act, which laid the basis for the present system of compulsory conciliation. Initially, the system was applied only in specified public utilities, but the principle now has broad application. In 1925, the Act

was declared unconstitutional in its application to industries found to be under provincial jurisdiction, but in subsequent years most of the provinces embodied the principle of compulsory conciliation in legislation of their own.

The conciliation system now in wide use provides that, where a union and an employer are unable to reach agreement through direct bargaining, resort to strike or lockout action does not become legal until the specified conciliation procedure has been used. The procedure varies in detail by jurisdiction, but consists of referring the dispute to a conciliator, mediator or conciliation board, or some combination of these. Conciliators or mediators are usually full-time employees of the appropriate department of labour, whereas a conciliation board is usually a tripartite body made up of a neutral chairman and a representative of each of the parties established on an ad hoc basis in each case as the need arises. The reports resulting from conciliation or mediation activities are usually made public, and strikes or lockouts occurring before a stipulated time has elapsed following the release of the report are unlawful.

In 1944, by Order-in-Council P.C. 1003, the Federal Government established machinery to assist and encourage collective bargaining between unions and employers. The Order incorporated the previously-established

right of employees to organize and the compulsory conciliation procedure into a legislative framework for collective bargaining. This framework, patterned to a considerable extent on legislation adopted in the United States, provided in brief that:

- Certain specified practices that tended to inhibit freedom of association were unlawful.
- (2) A union that represented a majority of employees in an appropriate bargaining unit would be entitled to be certified as the exclusive bargaining agent for that unit.
- (3) An employer would be required to bargain in good faith with a union certified to represent a unit of his employees.
- (4) A strike or lockout, as already noted, would not be lawful until conciliation procedures had been complied with.
- (5) A board would be established to administer the law.

Following the Second World War, the principles of the Order were widely adopted in provincial legislation and in the federal Industrial Relations and Disputes Investigation Act passed in 1948. Although both provincial and federal laws have undergone modification during the past several years, the general principles adopted in the 1940s have continued to this day. (Compulsory conciliation as a condition precedent to a legal strike does not exist in

the legislation of the province of Manitoba, and has recently been dropped from the Quebec legislation.)

Collective bargaining

The object of a trade union is to maintain and improve wage rates and other terms and conditions of employment. This it does mainly through the process of bargaining collectively with the employer.

In order to establish bargaining relations, a union will normally apply to the appropriate labour relations board. federal or provincial (in Quebec to the Labour Commissioner General) to be legally certified as the bargaining agent for a particular unit of employees. If the board of commissioners is satisfied that the bargaining unit of employees for which certification is sought is an appropriate one for collective bargaining purposes and that the union has been authorized by a majority of emplovees in that unit to represent them on the basis of evidence that it will be required to produce, certification will normally be granted. Under certain circumstances specified in the legislation, the board or commissioner will order that the finding as to whether or not the applicant union represents a majority of employees be determined by secret ballot. What constitutes a unit of employees appropriate for collective bargaining is largely left to the discretion of the labour relations board or commissioner, but the legislation may specifically exclude certain categories

of employee, particularly managerial staff and those performing functions of a confidential nature with respect to labour relations matters.

The certification of a union bestows on it the exclusive right to bargain collectively on behalf of that unit of employees, a right that it retains until such time as its certificate is revoked. Revocation of a certificate may come about by two means:

- (a) Another union applies for certification and is certified as representing the majority of employees in the bargaining unit, in which case it becomes the exclusive representative of the employees in the place of the former bargaining agent.
- (b) An application for revocation, based on the claim that a majority of employees in the bargaining unit no longer wish to be represented by the union, is made in accordance with the law and sustained by the labour relations board, in which case the employees revert to the status of not being represented by any union.

Labour relations law in Canada provides that, once a union has been certified as bargaining agent for a unit of employees, it may serve notice on the employer to bargain collectively. The employer on whom such notice is served is required to commence bargaining collectively with the union within a certain number of days following the notice, as specified in the

legislation. If the parties reach agreement through the bargaining process, the terms and conditions are set forth in a collective agreement signed by both parties. It will become effective on the date specified. Canadian labour relations laws stipulate that an agreement must remain in force for a period of at least one year. A collective bargaining agreement is binding on the parties concerned, and strikes and lockouts during its period of effectiveness are unlawful. Thus it is a usual requirement of Canadian law that collective agreements contain a procedure for the settlement of grievances that arise during the life of the agreement, culminating in the use of binding arbitration if necessary.

If the parties are unable to reach a collective agreement through bilateral negotiations, they may be required by the Minister of Labour to submit their differences to conciliation. If conciliation is imposed by the Minister or requested by either party, a strike or lockout cannot legally take place until a certain number of days have elapsed following completion of the conciliation processes, except in Manitoba and Quebec, where this requirement does not exist.

For the most part, collective bargaining in Canada is decentralized, with the result that most collective agreements are between an employer and a union acting on behalf of the

employees of a single plant. There are, however, a limited number of industries - for example, construction, clothing manufacturing and logging and lumbering - in which bargaining encompasses employees in large numbers of firms within a locality or geographic area. In some of these circumstances, the negotiations may involve several unions separately, each representing a particular craft or other grouping of employees. There are other situations in which a collective agreement applies to several or all plants of a certain company, especially where the plants are in close proximity to each other. Finally, bargaining units in a few companies, particularly those engaged in national transportation and communication activities, are company-wide in scope, although separate agreements are made for different groups of employees. For example, there are company-wide agreements for railway employees applying separately to operating tradesmen, non-operating employees, shop crafts, etc. Collective bargaining on a national industry-wide basis has not, on the other hand, developed in this country.

Generally speaking, collectivebargaining agreements in Canada are broader in scope than those of many countries outside North America. This may be explained, at least in part, by the fact that some of the wide variety of subjects with which they deal may be matters for legislation in other countries.

It is not possible in a short paper to refer to the large number of subjects that may be covered in a collective agreement, but brief reference is made below to certain of the more important matters that are found in most agreements — wages, hours of work and overtime, paid vacations and holidays, health and welfare benefits, seniority, union security, grievance procedure.

Wage-rates are matters for negotiation in all collective bargaining situations and, as a rule, collective bargaining contracts contain detailed wage schedules. These take the form of a listing of occupations covered by the contract with the rate — hourly, daily, weekly, piece, etc., as the case may be — to be paid to each. Any adjustments to the rates during the term of the contract and the dates on which they will become effective are also included in the schedules.

The periods of work during which the rates set out in the wage schedule apply are usually set forth in terms of hours a day, hours a week and days a week. Virtually all agreements require that any and all work beyond these hours must be paid at premium rates — one and a half times or twice the regular rate, in specified circumstances. Collective agreements may also set forth, with varying degrees of detail, regulations pertaining to starting

and stopping times, meal periods and rest periods and, where shift work is involved, details regarding the rotation of shifts and the amount of any premium rates to be paid for night-shift work.

Most collective bargaining contracts in Canada provide for annual paid vacations. As a rule, the number of weeks of vacation varies according to length of service with the firm and may range from two weeks for recentlyhired employees to five or six weeks for very long-term employees. Most agreements also name certain recognized holidays as days for which employees will be entitled to pay even though they do not work. Any employees required to work on such days will be paid at premium rates in accordance with conditions laid down in the contract. The number of days to be recognized annually as paid holidays varies among contracts but a range of eight to 12 is common.

Among the many types of health and welfare benefits to be found in Canadian collective agreements, sickness indemnity payments or sick leave, supplemental hospital benefits, supplemental medical-surgical benefits, supplemental lay-off benefits and retirement benefits are common.

Seniority, long an important factor in collective bargaining, depends mainly on length of service and provides certain advantages to employees on the basis of service with the firm. Seniority may be an important consideration in such matters as promotion, demotion, lay-off, choice of work and shift, and choice of vacation. It may, in fact, be the major determinant in some of these situations.

Union-security provisions are frequently included in collective agreements. Such provisions may relate to union membership or the payment of union dues or both, Union-security provisions pertaining to union membership range from (i) the closed shop, in which only union members may be hired and retained in employment, and (ii) the union shop, in which employees are required to take out and maintain membership in the union, to (iii) maintenance of membership under which employees who are union members when the agreement becomes effective must maintain that membership throughout the period of the contract. In terms of union dues, union security refers to a system under which the employer deducts (checks off) union dues from the pay of employees and transmits the funds to the union. A check-off may be dependent on the agreement of the individual employee - voluntary - or may be compulsory and may be applied only to union members or to all employees in the bargaining unit regardless of union membership (socalled Rand Formula).

Finally, almost all contracts contain a procedure for settling grievances. The typical grievance procedure provides that grievances will be taken by the union through a number of successively higher levels of the management hierarchy, usually from two to five, in an effort to have it resolved. If it is resolved at any stage, the matter is concluded and the question may not be reopened. If, however, resolution is not achieved at any stage, the grievance is, almost without exception, referred to final and binding arbitration by a third party, such being a requirement of most contracts and of most Canadian legislation.

Labour standards and other protective legislation
While a great deal of reliance has been placed on collective bargaining as a means of establishing pay rates and other terms and conditions of employment in Canada, legislation also plays an important role in defining minimum standards such as hours of work, minimum wage, vacations with pay, general holidays, maternity leave, equal pay for equal work (or work of equal value) between male and female employees, and advance notice of individual and group termination of employment.

Protective legislation also includes acts and regulations aiming at the

safety and health of workers in the workplace, providing compensation for employment injuries and the rehabilitation of injured workers, fixing a minimum age for employment, and provid-

ing unemployment insurance benefits. Legislation prohibiting discrimination in employment practices has also been adopted in all the provinces and by the Federal Government.

Table 1

Union membership 1911-1978, and union membership as a percentage of the civilian labour force and of the total non-agricultural paid workers, 1921-1978

(selected years)

Year	Union membership (thousands)	Percentage of civilian labour force	Percentage of non-agricultural paid workers
1911	133		CARLESTON TRANSPORT
1916	160		
1921	313	9,4	16,0
1926	275	7,5	12,0
1931	311	7,5	15,3
1936	323	7,2	16,2
1941	462	10,3	18,0
1946	832	17,1	27,9
1951	1 029	19,7	28,4
1956	1 352	24,5	33,3
1961	1 447	22,6	31,6
1966	1 736	24,5	30,7
1970	2 173	27,2	33,6
1971	2 231	26,8	33,6
1972	2 388	27,8	34,6
1973	2 591	29,2	36,1
1974	2 732	29,4	35,8
1975	2 884	29,8	36,9
1976	3 042	30,6	37,3
1977	3 149	31,0	38,2
1978	3 278	31,3	39,0

Table 2
Union membership by congress affiliation, 1978

	No. of	Membe	rship
Congress affiliation	locals	Number	Per cen
CLC	8 647	2 203 812	67,2
AFL-CIO/CLC	3 894	1 281 495	39,1
CLC only	4 753	922 317	28,1
CNTU	1 105	177 755	5,4
CSD	283	38 083	1,2
CCU	54	26 007	0,8
AFL-CIO only	33	10 573	0,3
Unaffiliated international unions	134	96 278	3,0
Unaffiliated national unions	1 352	665 088	20,3
Independent local organizations	139	60 372	1,8
TOTAL	11 747	3 277 968	100,0

Table 3

Union membership by type of union and affiliation, 1978

in ode ter amployment, and mov			Members	ship
T and offiliation	No. of unions	No. of locals	Number	Per cent
Type and affiliation	88	4 312	1 553 477	47,4
nternational unions	69	3 894	1 281 495	39,1
AFL-CIO/CLC	5	251	165 131	5,0
CLC only	7	33	10 573	0,3
AFL-CIO only	7	134	96 278	3,0
Unaffiliated unions		7 047	1 637 626	50,0
National unions	121	4 392	743 886	22,7
CLC	23	1 102	177 239	5,4
CNTU	9	147	25 406	0,8
CSD	3	54	26 007	0,8
CCU	13	1 352	665 088	20,3
Directly chartered local	251	249	26 493	0,8
unions	444	110	13 300	0,5
CLC		3	516	*
CNTU	100	136	12 677	0,4
Independent local	470	139	60 372	1,8
organizations	. 630	11 747	3 277 968	100,

^{*} Less than .1 per cent.

Table 4 International and national unions by size, 1978

	Internatio	International unions	NAIIOI	National unions		
			No of		No. of	
	No. of	Memhershin	unions	Membership	unions	Membership
Membership range	CIIIOIIIS	ducionium		40	7	
Under 100	9	067	, ,	301	9	
199	4 .	2000	11	3 441	17	5 294
200 - 499	9	2 264	- L	3 311	8	5 575
666 - 009	თ :	707 700	200	36 017	38	.09
1 000 - 2 499	14	24 160	3 22	79 312	29	10
2 500 - 4 999	7	281 62	7 %	176 336	36	261 073
2 000 - 0 666 6 - 000 9	1	84 /3/	1 2	131 186	19	22
10 000 - 14 999	∞ ι	110 640	_ «	105 397	13	22
15 000 - 19 999	7	118 646	o «	139 878	12	27
20 000 - 29 999	9 1	132 993	0 4	135 727	6	30
30 000 - 39 999	2	coc 0/1	THE SECTION AND ADDRESS OF THE SECTION ADDRESS OF THE SECTION ADDRESS OF THE SECTION AND ADDRESS OF THE SECTION ADDRESS	40 638	1	40 638
40 000 - 49 999	. (500 505	4	272 549	13	841 144
20 000 - 99 999	m c	329 000	· w	513 493	5	845
100 000 and over	7 00	1 553 477	121	1 637 626	500	3 191 103

Table 5 Union membership by province, 1977

				Percentage		Percentage
		DAN BOOK	-	of total	Cacham bio	of paid
	No. of	Total	Female	Canadian	Faid Workers	WOLKELS
Province	locals	members	members	membership	(s,000)	in unions
Newfoundland	408	63 485	14 567	2,1	127	20'0
Prince Edward Island	105	9 918	3 822	0,3	33	30,1
Nova Scotia	583	93 466	26 697	3,0	251	37,2
New Brinswick	543	80 693	22 960	2,6	191	42,2
Ouebec	3 447	853 192	274 373	27,6	2 211	38,6
Ontario	4 330	1 127 867	295 438	36,4	3 292	34,3
Manitoha	602	131 258	43 180	4,2	360	36,5
Saskatchewan	525	91 109	32 894	2,9	275	33,1
Alberta	732	199 248	60 283	6,4	695	28,7
British Columbia	1 381	438 404	109 831	14,2	922	47,5
Yukon and N.W.T.	74	6 661	1 459	0,2		T COLOR
TOTAL	12 837	3 095 301	885 504	100,0	8 358	37,0

Sources
For union membership: Industrial and Geographic Distribution of Union Membership in Canada, 1977, Labour Canada, 1979.
For paid workers: Dominion Bureau of Statistics, The Labour Force, January 1977.

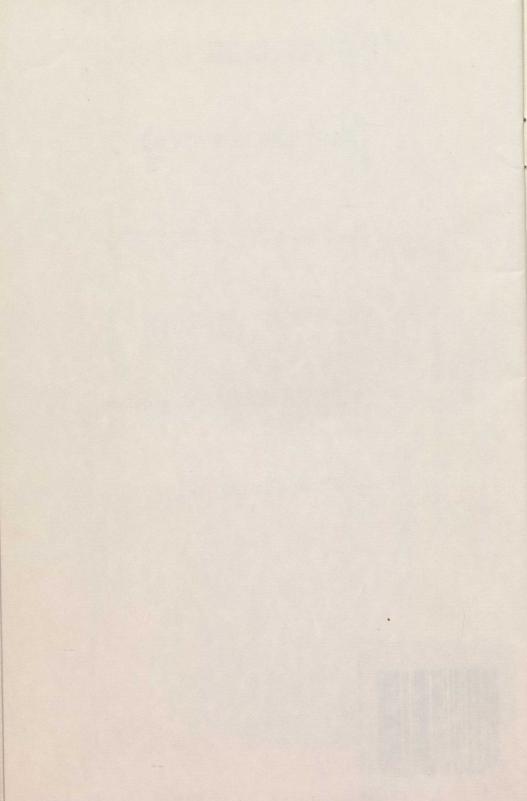
Table 6

Union membership by industry, Canada, 1977

				Percentage of total		Percentage of paid
Industry	No. of locals	Total members	Female	Canadian membership	Paid workers (000's)	workers in unions
Agriculture	22	2 980	476	0,1	115	2,6
Forestry	62	32 666	857	1,1	51	64,1
Fishing and trapping	26	3 118	34	0,1	5	62,4
Mines, quarries and oil wells	244	63 635	1 479	2,1	146	43,6
Manufacturing industries	4 166	868 870	164 539	28,1	1 859	46,7
Construction industry	652	302 954	3 092	8'6	441	68,7
Transportation, communication				L		
and other utilities	2 502	439 416	76 133	14,2	775	26,7
Trade	610	132 050	45 773	4,3	1 478	6'8
Finance, insurance and						
real estate	65	7 884	5 028	0,2	496	1,6
Community, business and						
personal service industries	2 896	781 470	436 245	25,2	2 335	33,5
Public administration	2 649	460 126	151 848	14,9	859	6'69
Industry unspecified	2	132		0,0		
TOTAL	*	3 095 301	885 504	100,0	8 358	37,0

* Union local figures are non-additive because many locals have members in more than one industry.







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