

AUNBT 54th ANNUAL GENERAL MEETING
Wednesday, 28 April 2010 @ 10:30 AM
Fredericton - Wu Conference Centre Auditorium
Saint John - Hazen Hall 239

President David Bell opened the meeting at 10:40 am from the Saint John venue. He recognized that the Canadian Labour Congress declared that April 28 marked an Annual Day of Mourning for workers killed or injured on the job in Canada.

1. **Adoption of draft Agenda**
Moved (L. Both, M. Jones) to adopt the agenda. Carried
2. **Minutes of AGM 29 April 2009**
Moved (E. McGahan, L. Both) to adopt the minutes of 29 April 2009. Carried
3. **President's Report**

Welcome to AUNBT's 54th annual meeting. Welcome also to visitors. Those in my sight-line at the moment include Linda Lequin, the president of FNBFA, Dennis Desroches, its incoming president, and Michèle Caron, the long-serving president of the Association des Bibliothécaires, des Professeures et des Professeurs de l'Université de Moncton.

These are momentous days in the affairs of AUNBT. Jula Hughes and Lloyd Waugh will soon explain how, within the last month, both sets of collective negotiations have been brought within range of settlement. It speaks to our strength as a union that we have been able to respond successfully to the many challenges of bargaining, in one case for a first collective agreement from a position of some weakness, in the other for a renewed collective agreement after the provincial government skewed the terrain in favour of the employer. I say this candidly but not complaisantly. Indeed, I acknowledge that AUNBT and its Executive and its president have had failures as well as successes over this last year. Let me begin by acknowledging some failures.

- The work of AUNBT committees has taken a back seat to the pressures of bargaining. In a union that now has 1000 members this should not have to be so.
- Despite efforts, we have failed to induce the administration to take seriously the work of the joint health and safety committees, particularly on one of the campuses. I fear that some day this may come back to haunt us.
- To some and perhaps many members we have failed to communicate resolve to get greater efficiency and effectiveness in the work of the Federation of New Brunswick Faculty Associations.
- We have not shown the leadership required to recruit to the various positions and committees within AUNBT a cadre of activists who correspond more closely to the demographic of our own membership.

- We have yet to succeed in clarifying the employment status of our now considerable number of members who teach overseas for part of the year.
- And we have made only modest progress in integrating contract academics (that is, part-time teachers and librarians) into the work of the Association, though of course we hope that the achievement of a collective agreement will make that much easier.

By acknowledging such failings publically, we put them on a sort of Association to-do list.

Now, I propose with your indulgence to take a bit longer than typical to report on important issues that the Association and its hard-working Executive are dealing with or may soon have to deal with.

As always, I begin with that document known as the **Action Plan to Transform Post-Secondary Education**, issued by the province in June 2008 and practically ghostwritten by the four university presidents. The Liberals have recently published a pre-election progress report on the **Action Plan** noting that most of its promises have been implemented (eg, increasing access to post-secondary education and reforming the community college system). But at the heart of the **Action Plan** was, and is, a cluster of proposals to tie academic decision-making, programs, and funding to the political priorities of the government of the day. It was these ideas that we in AUNBT and our sister associations resisted so vehemently. You may recall that we issued a bulletin to members entitled “University Autonomy on the Line”, and for the only time in my memory something written by AUNBT became the lead story on the front page of the **Telegraph-Journal**. It would be too much to hope that our “searing critique” (as the **Telegraph** called it) of the **Action Plan** persuaded the government of its folly, but it is a fact that not one of the proposals to which we most objected has yet been implemented. My own often-expressed fear is that, after the next provincial election, the government will turn its eye from the community colleges to the universities. As it happens, we are meeting tomorrow at Mount Allison with the minister of Post-Secondary Education, who is also the minister of Labour. We are hoping for a heart-to-heart pre-election chat with the minister about university autonomy and government interference, as well as about free collective bargaining.

One of the ways in which the government has impinged on university autonomy is the new **Right to Information and Protection of Privacy Act**. The implications of this measure for universities is a matter on which we, and for that matter FNBFA, have done considerable work but not yet circulated it because the Act, though passed a year ago, remains unproclaimed. We hear now that proclamation is being deferred until “next year”, a euphemism for after the election. The issue that gets us excited is this. For the first time the Right to Information regime is to extend beyond government, to the four public universities. Subject to certain exceptions, any member of the public will be able to demand any information under a university’s “custody or control”. Suppose a disgruntled student or colleague or a disappointed applicant to a granting committee on which you sit demands from your university employer all documents on a certain subject. The university will now be obliged by law to produce all those within its custody or control. Immediately the question will arise what documents that you generate in the course of teaching, research and service are in your employer’s custody or control. If the university should assert that your emails, your post-it notes and those work-related files you happen to keep at home are documents in its

“custody or control”, as indeed would be the case if you were in an ordinary employer/employee relationship, then AUNBT will back you in resisting that sweeping claim. One would like to think that the administration will not be so aggressive or so careless of academic freedom as to assert that it controls all of the work-related documents we generate daily, but if such a claim comes then academic freedom demands that we resist.

A somewhat related issue is the state of electronic privacy at UNB. Is the employer spying on your electronic communications? Are rogue employees in some corner of the university passing their time by reading your emails? This perennial member concern has never been addressed satisfactorily. We therefore used the process of full-time bargaining to try to gain some insight into UNB’s protection of privacy procedures in the electronic domain. The result was not enlightening. Some members then went after the same sort of information in the Senates. There we learned that UNB has no trustworthy safeguards to employer, or indeed rogue employee, electronic spying. At least in the Fredericton Senate, the message from the new head of ITS was : trust us, we’re all gentlemen. And while this may be true, we do have to trust them for there is no audit of their compliance with their own policies. When asked how many times there had been an authorized monitoring of an academic’s email in the most recent 12-month period, the answer was that they don’t count. So what we have succeeded in doing, with some help from question period in the Senates, is exposing the problem. What we have been promised, both in the Senates and by private letter to AUNBT, is that the president will appoint a committee this year, including AUNBT’s nominees, to examine this whole e-mail monitoring issue.

I have just referred to information that has come out in one or other of the Senates and in particular during Senate question period. In theory the Senate is the highest and principal forum for collegial governance in academic affairs. Yet there seems to be an iron law of senates that they are always tending to become rubber stamps. This year, to be sure, Fredericton Senate members have emulated those in Saint John in trying to make something of question period, and we have even invited all elected senators to a pre-Senate caucus meeting. While such efforts have not been wasted, the fact remains that most UNB senators take no part in Senate proceedings. CAUT, the Canadian Association of University Teachers, has become so pessimistic about the effectiveness of academic senates as a bulwark against aggressive managerialism that it has issued a document urging faculty associations to attempt to police the collegial process through the collective agreement rather than relying on senates to do so. AUNBT’s own collegial rights articles are strong but a grievance or threat of a grievance cannot be as healthy for UNB as vigorous senate debate. If you are thinking of running for the Senate, your job is to do your homework, then actually attend the meetings and then report back to colleagues.

Let me refer quickly to three developments elsewhere that we hope will stay elsewhere. One is what are called “furlough” days. Furlough days amount to short-term lay-offs. The employer simply tells you to stay home for a certain number of days, for which you will not be paid. You may wonder how this might occur in the face of a collective agreement. The supposed answer comes by analogy from industry. When the plant has no work, the hands are sent home until they are re-called. How a university teacher or librarian could be told that there was “no work” is hard to conjecture. But it has happened already at Lakehead. In response,

the faculty union hosted a day of protest in December. John Neilson went to Thunder Bay to represent AUNBT. The Lakehead faculty association also launched a grievance against imposition of such furlough days, hearings for which are scheduled to conclude next week. The union conjectures that the university's case is being supported financially by other university administrations, and we can be sure that if the Lakehead association loses its arbitration there will be ramifications from sea to sea.

Lakehead University has also been ground zero for another ominous development. Google is now offering universities free use of what are called Google Applications for Education. Under this scheme it is Google that will furnish email and related services to faculty, staff and students, thereby saving the employer some money. Lakehead University has signed on, abandoning its own email system and delivering it employees and students over to Google. Any user of Google Apps must agree to terms of use that include the following:

- Google can monitor, edit or disclose any personal information, which is a discreet way of saying that all of your information is open to the US government under the **USA Patriot Act**
- Google can terminate or suspend your account at any time for any reason
- any legal dispute with Google must be resolved under the law of California in the courts of Santa Clara county, California.

Now that Lakehead has signed up for the cost-savings in IT that Google offers, the worry is that all universities will follow. Apparently the University of Alberta is to be next.

A third it-might-happen-here scenario to which I direct your attention involves universities entering into contracts with private corporations who set up, on campus, one-year academies that teach language skills and a first year curriculum to students from abroad. These private academies exploit the university's name and credibility in promising that, if the student passes a year at this academy successfully, the student will be admitted automatically into second year at (for example) UNB. This is good for university revenues because the university gets paid for use of its name and credibility and, in year II, it gets some overseas students paying full tuition. But disadvantages are obvious:

- the students in the private academy are using the university's library and other campus resources
- in second year, such students would by-pass ordinary university admission requirements and, in a competitive program, would jump the queue
- when marginally qualified students still learning the language present themselves in the library or in the second year classroom, they require more help.

If the prospect of Canadian universities allowing such academies seems far-fetched, then you will be interested to hear that they exist already at Simon Fraser and Manitoba and are under consideration at McMaster and Dalhousie. At Windsor the faculty association succeeded in persuading the senate to reject such an academy, but only after what it describes as a membership mobilization akin to a strike mobilization. But at some of the institutions I have named, the administration did not even bother to take the academy arrangements to the

senate. The Dalhousie faculty association was and is sufficiently alarmed by the threatened arrival of such an academy that they sponsored a one-day symposium on the phenomenon last week, at which AUNBT was represented by Julia Hughes.

Finally in this report, I turn to collective bargaining. Julia and Lloyd will be acquainting you with where we are heading and perhaps give some of their reflections on the course of bargaining. I will mention some of the sidelights of (in this case) full-time bargaining that you should know about.

- First, we have not been alone. About 20 of our sister faculty associations from coast to coast have written us letters of solidarity. Many letters remarked on the irony of UNB (with St Thomas) playing host next year to the largest gathering of academics in Canadian history while claiming simultaneously that it could no longer afford to be a national university.
- Second, we have not been alone. Other faculty associations in New Brunswick have been unstinting in their help. Both Mount Allison and Moncton had used our conciliator before and briefed us on her. After the government imposed a conciliation board, Michele Caron briefed us repeatedly on Moncton's experience with a such a board. Most of all, we need to thank FAUST, the Faculty Association of the University of Saint Thomas. Half a dozen FAUST members launched us expertly on contingency planning, sharing their archive of forms, spreadsheets and do's and don't's. FAUST's behind-the-scenes support for AUNBT since last summer has been vital. We can hardly thank them enough.
- Third, we have not been alone. You will be glad to hear that one of the undergraduate student councils passed unanimously a resolution that, although ostensibly neutral between the administration and AUNBT, in reality endorsed AUNBT's position on nationally competitive salaries. We also have strong pledges of support from the UNB Employees Association and from the PSAC local of graduate student workers.
- Mention earlier of how helpful FAUST members have been brings me to something that we have neither kept secret nor flaunted. As long ago as last August we began forming what we called a contingency committee (a term we borrowed from Mount Allison), which eventually became two committees. We formed them against the possibility of a strike or lock-out. We formed them not because such eventualities were likely but out of prudence and caution. I say with pride that everyone who was approached to serve on the contingency committees agreed to do so. With the passage of time, as the possibility of strike or lock-out began to look less remote, more people joined. By mid-February things were so tense that, in both Fredericton and Saint John, we were out there inspecting properties to use as headquarters. I mention all this, which as I say was never secret but also never paraded, because it represents a great psychological step forward for this Association. On your behalf I thank those members who were willing to put their time and credibility on the line to prepare for a contingency that, however remote, we all dreaded. When on a couple of occasions I reported to the Collective Bargaining Council that contingency committees were at work, I'm pleased to say that members did not faint or panic but took it for what it

was: a matter of course. How very different this was from reactions in the same Council when things started looking bad in 2005-06. Contingency planning is a matter of course. For a union in bargaining to work for the best while making provision for the worst is normal. In that respect AUNBT is now a normal union.

4. **Report of the Chief Negotiator (CAE) – J. Hughes**

J. Hughes reported on the state of part-time negotiations. She thanked the team, collective bargaining committee and full time membership for their support.

CAS bargaining updates can be found at:

<http://aunbt.caut.ca/ptcollectivebargaining.html>

5. **Report of the Chief Negotiator (FT) – L. Waugh**

L. Waugh briefly reported on the state of negotiations and thanked the team for their support.

Full-time Bargaining updates can be found at:

<http://aunbt.caut.ca/ftcollectivebargaining.html>

6. **Report of the Nominating Committee – F. Holyoke**

(a) Election of president

David Bell was the only nominee for President and he was elected by acclamation.

Dr. Saba Mattar will continue to serve as past-president.

(b) Election of Executive members-at-large

The following individuals were elected as members at large.

Wendy Bourque	Psychology
Juan Carretero	Mechanical Engineering
Greg Fleet	Business
Jennie Hornosty	Sociology
Jula Hughes	Law
Arthur James	Classics
Miriam Jones	Humanities & Languages
Brian Lowry	Chemical Engineering
Rose McCloskey	Nursing
Elizabeth McGahan	History & Politics
Richard McGaw	Economics

Saba Mattar	Chemistry
Charlene Mayes	Biology
Allan Reid	Culture & Language Studies
Alyssa Sankey	Mathematics & Statistics
Gopalan Srinivasan	Business Administration
Merle Steeves	Cataloguing, UNB Libraries
Melanie Wiber	Anthropology
Lucy Wilson	Geology

7. Constitutional & By-law Amendments

Agenda Item 7 (a) – Proposed Constitutional Amendment – FNBFA

Proposed amendment to the Association of University of New Brunswick Teachers Constitution.

Whereas Article 5 (b) of the AUNBT Constitution states that “The Association shall be a member of the Federation of New Brunswick Faculty Associations and the Association shall pay the dues as set by that Federation.”

And whereas AUNBT allocated \$140,000 to the FNBFA in annual dues in 2008

And whereas the amount to be allocated will be even greater in 2009 because the annual appropriation is a per member formula and the membership of AUNBT has increased as a result of the addition of part-time employees to the Association

And whereas the FNBFA has failed to distribute written annual reports or financial statements to the general membership of the Association accounting for expenditures

And whereas faculty from the satellite campuses of Universite de Moncton have direct representation on the executive of the FNBFA and faculty from the Saint John campus of UNB do not

Be it resolved that Article 5(b) of the AUNBT Constitution be immediately repealed and that AUNBT resign its membership in the Federation of New Brunswick Faculty Associations and address any outstanding responsibilities tied to its affiliate status in FNBFA as of 1 July 2009.

Lee Chalmers presented the argument for withdrawing from FNBFA which was followed by several interventions both for and against withdrawal including a statement from Michelle Caron president of FNBFA.

The question was called and the results were 24 yes, 52 no and 2 abstentions. Motion defeated.

Agenda Item 7 (b) – Proposed By-law Amendment – Dues

Take notice that at the AUNBT annual general meeting to be held on 28 April 2010 Gopalan Srinivasan will move that the Dues by-law be amended by striking out paragraphs 1 and 1.1 and substituting the following:

E. DUES

~~1. Each member, whether on sabbatical or study leave, shall pay annual dues in the amount of 1.0 percent of actual salary (excluding stipends for overload teaching or administrative duties) such dues not to be less than \$50.00.~~

~~1.1 Notwithstanding By-law E (1), no annual dues shall be assessed against members of Group 2 until such time as the Association has been certified as bargaining agent for Group 2. [Marginal note: The Executive Committee understands this provision to permit postponement of dues collection until members of Group 2 have ratified their initial Collective Agreement.]~~

1. Each member drawing a salary or stipend, including members on paid leave, shall pay dues in the amount of 1.0 percent of such salary and stipends.

Moved (G. Srinivasan, M. Jones). Carried.

Agenda Item 7 (c) – Proposed By-law Amendment – Investment Committee

Take notice that at the AUNBT annual general meeting to be held on 28 April 2010 Gopalan Srinivasan will move that the General By-law be amended by adding a By-law F as follows:

F. Investment Committee

1. The Executive shall appoint annually a committee consisting of the Treasurer and at least two other members to advise on matters connected with the Association's investments.

2. The Investment Committee shall

- Oversee the investment of Association funds, in accordance with its investment policy;*
- Make recommendations to the Executive Committee as to the appropriate size of the Association's financial reserves and the financial institutions with which it should deal; and,*
- Report regularly to the membership on its activities.*

Moved (G. Srinivasan, C. Mayes). Carried

8. **Academic Pension Plan Report – J. Thompson**

1. **Comparison of return rates, 2008 and 2009**

The calendar year 2009 brought strong returns, namely, 15.2%. This would be considered a very good year for a pension fund (pension plans use conservative investment strategies) in any recent decade. As everyone knows, the previous year, 2008 was a disastrous year for investments, pension funds or otherwise. Our fund return rate in 2008 was -13.0%, that is, a 13.0% loss. Regarding this, the only good thing that can be said is that most other pension funds fared even worse in 2008. (For example in the Canadian university sector, a table of return rates in 2008 for 23 universities published in the *Globe & Mail* on February 22 showed a range from -11.1% to -29.1%, with -13.0% being second best in this group.)

2. **Plan Valuation**

New regulations in this province require that, henceforth, substantially underfunded pension plans must file annual valuations with the Office of the Superintendent of Pensions (previously, the regulations required filing at least once every three years). Last fall the Board of Trustees instructed the Plan actuary to prepare a valuation based on data of July 1, 2009 (and so, under the new regulations, the next valuation must be based on data no later than that of July 1, 2010). The valuation results were presented to the Board of Trustees at the end of November, and the Board voted to accept this valuation.

This valuation incorporates a special measure: consolidation of the amortization periods for the several actuarial unfunded liabilities incurred during the past decade or so – referred to as the ‘Fresh Start’ approach. This measure was introduced in an effort to help ensure that the Rate Stabilization Account established under the six-year Improvement Program (July 1, 2007 – June 30, 2013) will be sufficient to ensure the agreed contribution rate can be maintained for the full six years.

A Fresh Start measure is not normally permitted under the regulations, but is possible for the type of joint 50-50 plan we have – ours is the only plan of its type in New Brunswick – to which special sections of the regulations apply. The Office of the Superintendent must still approve, or, at least, not disapprove. Accordingly, the plan actuary and legal counsel for the Board of Trustees have been engaged in discussions with Office of the Superintendent. These discussions have been protracted, in part because the Office of the Superintendent has been busy dealing with pension benefit issues at a major industrial employer in bankruptcy protection. However, a response is anticipated in the near future. In the event of an unfavourable ruling by the Office of the Superintendent, an appeal may be lodged with the Labour and Employment Board.

3. **Committee Members**

AUNBT Pension Committee: Jula Hughes, Barbara Trenholm, Gopalan Srinivasan, Jack Vanderlinde, Rick McGaw, Jon Thompson (Chair)

AUNBT Appointees to Board of Trustees: Evelyn Richards, David Bell, Bob Maher, Gopalan Srinivasan, Norm Betts (Co-Chair)

Joint Group for Discussions with Government Officials: Norm Betts, Larry Guitard, Dan Murray, Jon Thompson (representing the Trustees and the Sponsors of the Plan)

9. **Treasurer's Report** – *G. Srinivasan*

Dr. Srinivasan presented the Auditor's statement, AUNBT's budget and investment reports. He reported briefly on the status of AUNBT's finances.

Moved (G. Srinivasan, C. Mayes) to accept the auditors statement. Carried.

10. **Grievance Committee Report** - *J. Hornosty*

On February 12 -13, 2010, we had a one and half day CAUT grievance handling workshop on the Fredericton campus conducted by Doug Vaisey from Saint Mary's University. Primarily for members of the Grievance Committee, this workshop, focused on the basics of grievance handling, including how to distinguish a grievance from a complaint and the legislative and contractual framework for grievance procedures.

There is still one policy grievance in process. The grievance has progressed to the second (formal) stage and we are waiting for the University's response.

There is a denial of tenure case from the 2008-2009 assessment year that is now scheduled for Arbitration in June.

A member's assessment for tenure this year was improperly dealt with at two levels. We were able to work with the University to resolve this case in a satisfactory manner.

There are two potential discipline cases that have not been resolved.

As has been past practice, we have provided assistance to members on a variety of issues: advice on preparing CVs and letters for assessment; requesting deferrals; notification requirements for 'early retirement', disputes between colleagues, assessment committees, workload, etc.

Based on our experience over the past few months, we are concerned that there appears to be a move towards more ‘punitive’ responses on the part of the University to what some might consider fairly minor issues. We urge Members to make sure that they are familiar with and meet their obligations under the Collective Agreement.

We would like to thank the members of the grievance committee for their participation in the workshop and our follow-up meeting in March.

We want especially to thank Brenda Arbeau for all her work in organizing and maintaining the grievance files, no small task given there are times when there are voluminous amounts of information.

11. **Federation of NB Faculty Associations report - *G. Allain***
G. Allain reported on the activities of the Federation of New Brunswick Faculty Associations.
12. **Other**