

# NEWSLETTER

**McGILL ASSOCIATION OF UNIVERSITY TEACHERS**

Vol. 25, No. 8

SPECIAL EDITION, MARCH, 1999

## **RELATIVE MERITS OF A UNION VERSUS AN ASSOCIATION OF ACADEMIC STAFF AT MCGILL**

On March 2, MAUT held an information meeting on the topic of unions versus associations of academic staff. The meeting was organized according to recommendations by the MAUT Committee on Collegiality, as amended and approved by the MAUT Council. In addition to external speakers from the national and provincial organizations of university teachers, we also invited David Levy, together with Shaun Lovejoy, to form an independent subcommittee of their choice to organize a pro-union presentation for the meeting. We invited David Stevens to do the same in favor of a faculty association. On behalf of the pro-union group, David Levy declined our invitation, stating that all of the arguments in favor of unionization had already been made at previous meetings, and he requested instead that MAUT make the entire contents of two reports, including appendices, available to everyone on the MAUT web page (this has been done, see below). David Stevens accepted our invitation.

The articles in this issue of the Newsletter contain all of the points brought forward by the speakers at our information meeting. James Turk, the Executive Director of CAUT, and Roch Denis, the President of FQPPU, both spoke in favor of unionization, and between them they presented the arguments from the practical, philosophical and historical points of view. David Stevens, Patrick Glenn, and Bruce Trigger addressed the advantages of a faculty association in comparison to a union, at a research-intensive university such as McGill. These formal presentations were followed by a panel discussion involving the members of the audience.

In addition to the information in this Newsletter, we draw your attention to the large amount of relevant material on the MAUT website, accessible on the main page (<http://www.mcgill.ca/maut>, click the green box on the left). Each of you will soon receive a mail ballot, asking your opinion on the issue of certification for academic staff at McGill. The results of this survey will direct the subsequent actions of the incoming MAUT Executive and Council. The members of the MAUT Council, and the MAUT Committee on Collegiality hope you will take the time to consult the articles in the Newsletter and website, in forming your opinion on the issue, and we sincerely hope you will vote. To paraphrase an earlier statement made during the survey on the Faculty Club: this is your decision, your Faculty Association, and your university.

Edith Zorychta,  
Vice-President, Communication, MAUT

## **ADVANTAGES OF CERTIFICATION FOR FACULTY ASSOCIATIONS IN CANADA**

*The debate about whether to seek certification for a faculty association is usually very emotional. The emotion is frequently generated more by image and ideology than by fact. Insofar as the issues are about image and ideology, my remarks are not going to be of much help to you. Some of the opponents of certification have the notion that once you become certified you have to start wearing cloth caps and*

*march in labour day parades and go on strike. Some of the proponents of certification can lead you to believe that it is a magical route to significant increases in pay and better working conditions. In reality it is not either of these things. Whatever you decide, whether you are a certified association or not, you will be the same group of people, dealing with the same issues. I will discuss the significant differences that result if you were to decide to become certified, based on experience with certified and non-certified associations across the country.<sup>1</sup> In the end you have to judge what is most appropriate for the faculty at McGill.*

The principal similarity between certified associations and non-certified associations is that all faculty associations in Canada negotiate with the university administration. Henry Mintzberg, a McGill professor, has published an article in opposition to certification.<sup>2</sup> He based his argument largely in defence of an individualized professionalism, which I suggest is irrelevant in this case because it does not exist anywhere in Canada, at any university. At every university, whether certified or not, the faculty association acts collectively on behalf of faculty and negotiates with the administration.

In contrast to this fundamental similarity, there are five main differences between certified and non-certified associations:

1. The extent of what is negotiated. Generally, across Canada, certified associations can negotiate a broader range of issues than non-certified associations. In most cases the latter deal primarily with salary, benefits, promotions and tenure. Certified associations do all of those, but also negotiate much more broadly around conditions of work, academic freedom, intellectual property rights, and a host of other issues.

2. The status of what is negotiated. MAUT has been quite successful in negotiating a new salary policy which will remove you from the floor of the big 10 up to the middle, or higher, and you are to be congratulated on that. I would feel more comfortable if that policy were in a legally binding contract and not open to unilateral abrogation by the administration. Non-certified associations are dependent on the goodwill or good intentions of the administration to carry out the policies that they negotiate. In most cases,

the will of the administration is good, but circumstances can change. Where it has been negotiated in the context of a certified organization in a collective bargaining relationship under a labour relations act, the administration is bound in the same way that the faculty are bound by the agreement. The McGill Handbook is very explicit that this is not the case at McGill. It gives the Board the unilateral right to change any agreement if unforeseen circumstances arise.<sup>3</sup> Similar clauses exist in every handbook or framework agreement where an association is not certified.

3. Democratic rights of the membership. In general, these are greater in a certified association. Labour relations legislation in virtually every province in the country, including Quebec, requires a certified association to assure that every member has the right to participate in a secret ballot vote on whether to adopt any agreement that is negotiated on their behalf by the association's negotiating team. That same right is not present for non-certified associations and frequently negotiations are concluded without a ratification by the entire membership.

4. Dispute resolution mechanisms. If an agreement cannot be reached with the administration, certified associations have access to a greater range of mediation and arbitration processes through the labour relations board. These have often resolved matters that the two parties could not voluntarily work out in their discussions.

5. Individual rights. Labour relations acts require what is called "the duty of fair representation". This means that any individual in a certified

association who feels that the association has not fairly or adequately represented his/her interests in the university has the right to request assistance, and should that not be forthcoming, to go to the labour relations board and say that the certified association has not fulfilled its duty.

### Concerns about certification

In all discussions of certification, there are a number of concerns that are raised. I will comment briefly on a few of these.

1. Undermine the individual control of work. That is a very serious issue, but I think that individual control of work is currently undermined far less by an association becoming certified than by the constraints that administrations are operating under as a result of funding cuts, and the pressures that are being created by greater reliance on public-private partnerships. Examples like the Olivieri<sup>4</sup> case, in which a corporate research partner tried to prevent the publication of results of a university-based study, illustrate the kinds of pressures that can undermine individual control of work. I think a certified association is in a relatively stronger position to deal with these pressures, especially insofar as it can have legally binding powers through an agreement on academic freedom.

2. Undermine the profession. I suggest that what undermines the profession is the increasing pressure from governments across the country. Trying to make universities more accountable is a laudable effort, but they are confusing accountability with accounting. Some provinces are already linking funding to performance indicators and other simplistic measures of what we do, so the profession is under attack. Certification offers greater hope of being able to resist these initiatives successfully. For example, in their last collective agreement, faculty at the University of Manitoba negotiated language to protect the faculty and the university from the imposition of a number of performance indicators the Manitoba government intends to

impose.

3. Turn administrators from colleagues into bosses, and create a more antagonistic relationship between administration and the faculty association. Empirically, that has not been CAUT's experience across the country. Both extremes - some of the best relationships and some of the worst relationships - exist in universities that have certified associations.

4. Give greater power to the faculty association executive. If anything, the opposite is the case. The labour relations act obliges the executive in a certified association to be accountable to the membership to an extent that exceeds present practices in most non-certified associations.

5. Focus more on narrow issues such as salary and monetary issues. The experience has been that certified associations in general deal with a wider range of issues than non-certified associations.

6. Introduce a foreign element into the university family, as if the union, or certified association is somehow different. In reality, whether you are certified or not, the association is still all of you and your executive. There is no third party, but you have additional legal rights that you did not have previously.

The best evidence against these concerns is that no certified association in Canada has made the decision to decertify, a process that is no more difficult than is certification. For every debate and discussion you have on this issue, there has been a parallel set of discussions at every other university that has made the decision to certify, and not one of them discovered afterwards that they made a mistake and decided to undo it.

At the present time, all faculty associations in Quebec are certified except at McGill. Across Canada 75% of the faculty associations are certified. Among the ten largest, your comparators, four are certified. A fifth, Alberta, comes under a provincial universities act, and

operates in ways that are essentially similar to a certified association.

In conclusion, remember that whatever you decide, some things will not fundamentally change. It will still be you, and it will still be the people you elect who will make all the decisions. The question is the context in which that happens, and whether you feel you need and

want the additional rights and protections that certification provides.

**James Turk, Executive Director,  
Canadian Association of University Teachers**

1. Many faculty unions call themselves a certified association rather than a union, and J. Turk has used this terminology. This necessitates use of the corresponding term non-certified association to refer those who are not unionized. To minimize confusion it should be pointed out that the remaining articles in this issue frequently use the words union (rather than certified association) and association (rather than non-certified association) to refer to the same entities. ed.
2. Henry Mintzberg. A Note on the Unionization of Professionals From the Perspective of Organization Theory. Industrial Relations Law Journal, Vol 5:623-634, 1983
3. McGill Regulations Relating to the Employment of Academic Staff, 1.11: "It is recognized that unforeseen circumstances may arise which will necessitate the amendment or repeal of these Regulations and the Board of Governors accordingly reserves its right to amend or repeal the same after the Principal has sought the advice of Senate at a special meeting of Senate."
4. Dr. Nancy Olivieri is a world famous clinician at the University of Toronto and the Hospital for Sick Children whose research on blood disorders raised questions about the safety of a new medication being developed by the drug company sponsoring her research. When she advised the Ethics Board and the company that she felt obliged to publish her results and inform her patients of her findings, the drug company threatened to sue her and neither the Hospital nor the University offered her any assistance or protection.

## **UNIONIZATION AND OUR CONCEPTS OF THE UNIVERSITY**

*This article will concentrate on some specific aspects of certification for university faculty, with regard to our traditional concepts of the university and some recent influences that are changing our academic environment.*

In all universities, not only in Canada but throughout the world, a major, and specific characteristic of the university is the close link between the main functions of the university mission (teaching, research and service to society), and the work of the faculty. It is more than a link - they are the same. This is very specific, and I think it is exceptional, this kind of institution, where the official mission is exactly the same as the task of the professoriate. This always determines a very specific dimension to collective bargaining for a certified faculty association within the university. In some collective agreements, as you may know, even the academic structures of the institutions are considered to be a condition of work by the faculty, and the professors who decided to

certify during the last 25 years wanted it this way to protect and to enlarge their academic responsibility within the institution. Therefore, when they decided to certify, it was not because they recognized that they were now in an employer-employee relationship, but to some extent, to the contrary. They wanted to oppose the process and model of industrialization, and to defend the specificity of the university and the faculty. This was the case, for example, at Laval, but there are also many similar examples of this process in different universities.

The transformation of relations between the faculty, the university administration and the state has also been a major factor involved in certification everywhere. The documents of the

70's, the founding documents of the new unions of university professors here in Quebec, but also in Canada and in the United States, show that everywhere, collegiality was one of the main issues at the origin of certification. **Professors decided to ask for certification to defend and protect collegiality, and not to replace it with a system of employer-employee relationships.** It is striking to see that in the 70's professors tried to protect themselves against new trends, new tendencies, which they called at this time the industrial, or the corporate model of the university. This was 25 years ago. I recently reviewed some of these documents, and although I have been concerned by these questions for many years, I was surprised to read this anticipation of the current process of transformation of our institutions. **The relationship between administrations and professors has always been at the heart of the debate about certification,** precisely because this relationship determines the conditions for teaching and research. This relationship fixes the dimension of the academic space, and the capacity for initiative of the faculty. So it was inevitable that this relationship was always central to the problem of whether or not to certify.

Governments and administrators frequently attribute bureaucratization and centralization of the university to certification, to unionization of the professors. Lack of flexibility, they criticize. Rigidity of the relations between different groups. I am not convinced by the explanation that these changes which have taken place in the university during the last decades have been the result of unionization of the professors. In 1993 the Carnegie foundation surveyed a large group of university professors in 12 countries, and showed that centralization and bureaucratization were linked to major social and economic factors. It is also interesting to note that when professors decided to ask for certification they were complaining against an ancient form of centralization that we can call paternalism - arbitrary paternalism. So they tried to resist and to defend their decentralized academic prerogatives against this paternalism,

just as right now, even with certification, they are trying to defend their academic prerogatives against a new form of centralization, bureaucratization, which is inherent in the influence of the corporate model on the university.

I don't know of any university where certification was an easy process. It has always been controversial, it has always been difficult. In every case it creates a large debate. This was the case at Laval, at the Université de Montréal, and at UQUAM. People sometimes believe that the professors were convinced they should become unionized even before asking the question. It is not true.

It is interesting to consider that **many professors seem to be preoccupied more by what they will lose if they certify than by what they will gain.** It is somewhat exceptional, because other groups in society discuss the issue trying to know exactly what they will gain, maybe because they have less to lose. What are professors afraid to lose if they unionize? A certain idea of the university, a certain idea of their place and their role, their predominant role and place in this institution, in which they consider themselves as the collective owners and leaders. They are afraid to lose a certain idea of the administration - an administration conceived as a function which is supposed to serve the academic mission. They are afraid that unionization will contribute to replacing this traditional function of the administration by one of an employer: boss toward employee. So the professors resist to the limit against these perceived losses.

In the traditional concept of the university, we are not supposed to see a situation like rapport de force, a balance of power, because there is collegiality. We are part of the same institution, the faculty, and the issues that we are dealing with are supposed to be settled by way of reason, and not by confrontation. This is now the question we are facing if we discuss certification. The university professors and the faculty, do they have to consider, while they are

not actually certified, to give themselves a better balance of power, a better collective rapport de force? It is not only towards the administration that we should consider this in 1999. Twenty-five or 30 years ago, the question was raised mainly in regard to the administrations. But **even where professors today are trying to have good relationships with their own administration, these relations are destabilized by the state, by government policies on such issues as funding.** This creates more tension, and the tensions tend to exacerbate each other.

So the question of certification, more than ever before, is raised by the interrelationships between the university, the faculty, the state and society. Is it possible to have this rapport de force while avoiding certification? Most of the groups that have certified in the past sincerely tried to avoid it at the beginning, for the reasons I tried to summarize. Finally they decided to unionize, and sometimes, believe me, it was really without enthusiasm. Once the decision is taken to certify, I think the only thing that is changed is what I will call the legal support for actions, and for the intervention of the faculty in the institution. **What legal support means is the capacity to constrain the administration, but not only the administration, to effectively discuss and negotiate with the faculty the best conditions for the accomplishment of the institutional mission.** For example, if we consider major national or political issues such as funding, we have the capacity, if we work together in the different universities, to exercise an efficient balance of power against the policy of the state. But this legal support is not a substitute for involvement, because even where professors and faculty are unionized, they always have to build their own rapport de force, their own autonomous coalitions. They always have to organize their own representation and action. Unionization is not an insurance policy. Not at all.

I think for you it may be a more difficult situation,

because in any university where the professors are unionized they can claim big gains in the last decade. But they are organized, they have legal support to defend themselves and their prerogatives. For example at Laval, **against the huge offensive of cutbacks recently announced by the administration, the main protection the professors have is their collective agreement.** The administration will have to discuss and to negotiate many of its objectives with the faculty. And it is good that this obligation be codified in the collective agreement the two parties signed. True negotiations always give better results than policies decided and implemented by the top. In many universities, the actual tendency to govern by the "management rights" method contributes to reduce collegiality and put pressures towards unionization of professors.

Finally I would say that in every institution, the process leading to certification, and the model decided upon has been different. Even in the network of the Université du Québec, the constitutions of the unions, and the processes of decision-making are different. The guarantees of democracy and control have been discussed by the faculty, they elaborate their own proposals, they discuss them in their assemblies and they make their own decisions. **There is no pre-arranged model of certification.** If you read the different documents, if you read the history of certification in the different universities in Quebec and also in the rest of Canada, you will see very different proposals and ways of functioning, and I think this has to be protected. We don't need a centralized process of unionization and operation. We need to preserve university autonomy in general, and this is also a very important issue in our own conception of certification.

**Roch Denis, Président,  
Fédération Québécoise des Professeures et  
Professeurs d'Université**



## DISADVANTAGES OF A UNION FOR ACADEMIC STAFF AT MCGILL

*I am a lawyer, and this summary is based on my experience with legal arguments, and with institutions founded on rights, in addition to my experience as an academic at an institution where collegiality, or consensus government, has worked reasonably well over a period of many years. I have ten points against certification. The evaluation of these points depends on how one weighs the various factors involved and assesses the cost. So really how one looks at these points is a question of judgement, and some of them have already been addressed by Jim Turk and Roch Denis from the opposite point of view. There may well be no conflict over the central value of collegiality between the pro-certification and the anti-certification camps, only on the best means of pursuing it. Unions have a number of serious drawbacks, and I don't think that unions would be a good means for pursuing collegiality, or governing the university, for the following set of reasons:*

1. Membership in the union would be a condition of employment for all McGill faculty and union dues would have to be paid by all. There would be initiation fees, penalties and special assessments.
2. There would be little room for independent thinking in regard to the appropriate response to employment issues. Consultation with colleagues would be bureaucratized and rights-oriented, as opposed to collegial and consensus-oriented.
3. It is conceivable that some faculty would opt out of unionization on a Faculty or Department basis, fragmenting the McGill community unnecessarily. Certain colleagues in administrative positions - deans, chairs, associate deans - would be automatically excluded from the union.
4. Employment conditions would become regimented. All aspects of the employer/employee relationship would be governed by the union contract. No informal arrangements would be possible. Much less emphasis would be put on performance standards and the common pursuit of excellence. Stratification of faculty would become an end in itself.
5. A union would not be entitled to use university resources.
6. Once a union were in place, it would be very difficult to get rid of it. Decertifying a union is a cumbersome and complex legal procedure.
7. A union cannot guarantee any particular result and it is not obvious that the threat of strike action would enhance faculty negotiating positions.
8. Unionization would reorient university/faculty relations away from the common pursuit of the good of the university as a whole to fractious debates over the material interests of faculty, involving salary and working conditions.
9. Formal contract negotiations are too cumbersome to deal with the issues facing the university in a quickly changing national and international environment.
10. Faculty give up 'ownership' of the university by accepting relegation to the status of employees.

David Stevens, Law

## ADVANTAGES OF A FACULTY ASSOCIATION RATHER THAN A UNION

*My objective is to explain the advantages of a staff association as opposed to a union, so in a sense I am putting a positive spin on what David Stevens has written. I will first address the general question of why, in my view, staff associations are more efficient in a university context than are unions, and then secondly, I will turn to the particular question of why a staff association, and notably MAUT, is the best form of organization for faculty members at McGill.*

So why would I prefer to have staff associations rather than unions, everywhere that there are universities? One reason, as David has implied, is that **unions cost faculty members more**. MAUT mil rates are very low, union mil rates are much higher. Even a \$600 increase is 1% of a \$60,000 salary, so these are fairly significant amounts.

Second, **associations generally negotiate on behalf of the academic staff as a whole**. They don't establish fragmentation, or competition, between different parts of the university. We do not have separate professional unions which strive for a greater share of the salary pie than the non-professional groups in the university. So a terrific advantage of an association is that it maintains the basic unity and collegiality of the entire academic staff of the university, whether that staff is directed to professional applied functions, or whether it is directed to more abstract questions and teaching.

A third reason is that **a faculty association provides flexibility**. It provides the flexibility to allow for individualized patterns of work rather than those which are laid down in a collective agreement. This is one perspective which is highly valued by many academics, and has particular significance to a professoriate that is aging. Flexibility is also important in a time of diminishing resources. When there is not enough money to go around, in order to remain healthy the university has to find alternate ways of doing things. An association provides a much greater degree of flexibility in a time of declining resources than does the formal structure of a union.

The fourth reason why I think staff associations

are more efficient than unions, is that ultimately **a staff association can be just as tough, and just as effective in the negotiating process**, as a union can be. I think it was very wisely pointed out that in either case, a great deal depends on the people involved. If you have weak union leadership, what you have is a weak union. If you have good MAUT or staff association leadership, you have a good, effective staff association. In the absence of a union, the university administration knows that obtaining the agreement of the staff association is the major source of legitimation for administrative efforts being taken. So there is an enormous pressure on a university administration, faced with a staff association, to obtain agreement on the part of the association. **If the staff association does not agree with what is proposed, it does NOT agree, and in my experience what happens at this university is that the administration then continues the bargaining process in order to effect agreement with the association.** Unless you are willing to say that the use of strikes should be contemplated, **I don't think a union provides any greater strength in the negotiation process than a staff association does. It is largely a question of the people in office, their commitment to the task, and their efficiency in the negotiation process.**

I believe the evidence for this, and here I come to a defense of MAUT in particular, is shown by the results that MAUT has brought about in the last decade. There are complaints about the situation at McGill, but if you look at what has happened through the work of MAUT, you will find that our salaries have been within 1 to 1.5% of the Quebec average during a time when McGill was the only university in Quebec with an



enormous deficit, of over 70 million dollars. In spite of that deficit, McGill salaries remained highly competitive with respect to other salaries in Quebec. And it is also the case that the number of courses given by professors, as opposed to contractuels, remains higher at McGill than in many unionized universities in Quebec. As a member of MAUT, I am very proud of the record of MAUT. I think it compares extremely well to the record of unionized organizations of academics everywhere in Canada, with regard to the many policies we have negotiated on all aspects of academic life. I am also delighted that the present MAUT Executive has succeeded in formalizing the agreement to increase salaries, such that this year we will be receiving approximately a 6% salary increase, and in the ensuing years our salaries will be regularly increased to put us at least at the level of the average of the group of ten. So the proof is here, within McGill: our situation shows that the overall policies of MAUT have been very effective.

Why is a staff association more appropriate at McGill, and arguably in some other universities, than in other organizations and other types of universities? I don't want to make any abstract ideological argument, but I think it is the case that universities differ significantly amongst themselves. **There are very real differences in structures and missions of the different universities**, and that's why MacLean's magazine rightly distinguishes between the research-intensive doctoral universities and other universities in Canada that have different missions. So we find that the ivy league universities in the United States have no unions, we find that **the majority of the group of ten universities that are research-oriented in Canada do not have unions**. I think there are distinctive structural reasons, reasons of university mission, which explain why there is considerably less unionization in these institutions.

I want to consider the article of Professor Mintzberg that was referred to as irrelevant, and come to the defense of the shelf life of articles

written by McGill professors. I'm sure it doesn't capture all of the reality of university experience in Canada, but I think it does, in the basic distinction it makes, help us to understand the levels of unionization in different types of university across the country, and in North America generally. Mintzberg makes a number of distinctions. I would collapse them all into a distinction between professional institutions on the one hand, or those having professional objectives, and bureaucratic institutions on the other hand. **The professional-oriented institution is one which sees the autonomy of its staff as its greatest asset. It therefore places the accent and the emphasis on facilitating the freedom of its staff, considering this to be the best condition in which the institution can flourish.** The bureaucratically-directed institution is one which sees itself as profit-making (and it is disconcerting to realize that there are thousands of new profit-making universities, especially in the third world), or clearly a service-oriented institution directed to providing a certain level and amount of teaching, in a certain geographic area, where the primary concern of the administration is making sure that specific services are provided to a specific audience.

I think Mintzberg is right in identifying differences between these structures and an institution like McGill, and there are differences in objectives between these two types of university. McGill is clearly, given that dichotomy, a research-professional type of institution. It clearly, amongst the ivy-league universities of the United States and the group of ten, valorizes the independence and the autonomy of its professorial staff, and I think this is key to our debate. McGill is only interested in paying the best salary, providing the best working conditions that exist in North America. McGill administrators would dearly love to be able to pay salaries equivalent to those of Harvard and Princeton, would dearly love to be able to say "we have more Nobel-Prize winners at McGill than in your institutions", because the Principals of McGill see our university as one that is competing with Harvard and Princeton

and the other major research institutions of North America in terms of the accomplishments of the individual members of the faculty and staff. So given that kind of institution, one that is directed to facilitating internationally competitive work in research fields, I think a faculty association is the structure which is most conducive to maintaining those overall objectives.

How can we say that an association facilitates both individual freedom and the university as a whole more than a union would? I think it is evident in the way that MAUT functions. If you have a union, what you must do is conclude a collective agreement. I will call it the OBA - the one big agreement. That means that enormous resources have to be directed to legalizing in formal form, essentially all of the important working conditions of the university, for everyone in the university, in a formal legal document. What happens in those circumstances can be compared to international trade negotiations, where you have linkages or setoffs. "We will back off on our claim for dental benefits in return for a 0.5 reduction in credits of the teaching load." Everything is subject to negotiation in the context of everything else. So there is an enormous pressure to formalize all relationships within this one central document, and everything is negotiable in relation to everything else in the process of negotiating the collective agreement.

MAUT doesn't work that way. We have a large number of committees indicating enormous work on the part of volunteers, and what they do is essentially go and negotiate the best deal in the particular field involved. There are no linkages. There are no setoffs. So it is not the case that everything is dictated by what is concluded somewhere else in the one big agreement. This means that the **MAUT negotiators are flexible**

**and free enough to negotiate the best particular results** in a dental plan, for example. Their negotiating in that process, trying to find the best result with the declining resources that are available, is not dictated by what is going on at another negotiating table, which would then be brought together at the one big negotiating table and related to everything else.

**So what we have is essentially a process of decentralized decision-making with respect to the conditions of employment at McGill.** It is one which relies on goodwill of the university administration, and the ability of individuals at the level of particular fields to arrive at the best conclusion. **Let me conclude by saying that as a lawyer, I prefer goodwill to contracts which are said to be binding. Contracts bind parties only so long as parties decide to be bound by them.** In the law of contracts there is a doctrine of efficient breach that tells you when you have breached the agreement, given the costs of anything that can be imposed upon you by remedy. So if universities don't like the collective agreement they are into, they don't have to adhere to it. They can decide not to adhere to it, and take whatever consequences are imposed as a result of extensive legal proceedings, the results of which are not assured in any way. Or they can say to the union - come back and renegotiate it again. So as a lawyer, I prefer good faith. As a lawyer, I prefer not to rely on the law. I prefer goodwill to heavy legal structures, and I therefore prefer MAUT.

**Patrick Glenn, Law  
President, MAUT, 1994/95**

The following documents, written by McGill academic staff, can be found at <http://www.mcgill.ca/maut>

1. Predominantly in favor of unionization: Committee report, David Levy and Eddie Chan, co-chairs.

**Report of the MAUT ad hoc committee to examine the pros and cons of certification.**

2. Predominantly against unionization: Article from Industrial Relations Law Journal, by Henry Mintzberg

**A Note on the Unionization of Professionals From the Perspective of Organization Theory.**

3. Detailed analysis of pros and cons at McGill, with legal expertise: Committee report, David Stevens, chair: **A study of the Advisability of MAUT Certification.**

## AGAINST UNIONIZATION

*Has the time come to abandon our traditional collegial form of government - which is barely understood outside the universities and all too often reviled as an antiquated survival of the medieval period within them - and finally to enter the 20th century (literally at the last moment) by joining a union? I have thought long and hard about this question, and listened carefully to what our invited speakers have had to say, and still believe the answer is "No".*

**Unionization is not a step to be taken lightly. It would make a very great difference to our legal and moral status within the university and to how we define ourselves and manage our affairs. It is also not a change that could be easily reversed if we didn't like the results.**

Most decisions to unionize occur around specific issues, although that is clearly not the ideal basis on which fundamental decisions should be made. As academics we must try to base our decisions on the long view.

There is currently much justified dissatisfaction at McGill, yet **looking at our unionized sister universities here in Quebec, I see no less deterioration in working conditions and no less narrowing and closing of programs. The fundamental problem is government policies and underfunding and these are issues that have to be addressed politically.**

§ We also must recognize that universities currently exist in a very hostile environment. Public opinion is not as much on our side as it might be, while governments, large corporations, and some far from disinterested would-be patrons seek to use us to promote their own narrow agendas of training, research, and social change. These people regard universities as public (or even private) utilities. Many specifically deny that universities have any reflective, critical, and independent role to play in society. Still worse, many increasingly vocal university officials argue that academics are incapable of running universities and should be replaced as soon as possible by professionally trained administrators who would follow career lines totally separate from the teaching and research staff. These individuals are

increasingly gaining the sympathetic ear of politicians and university governors.

**In my opinion, to unionize is in fact to abandon the claim that we are a collegium and accept that we are employees of administrators and ultimately of the state. This, in my opinion, is not a progressive step but a capitulation to the very forces that threaten what I hope most of us still believe the university stands for.** Such a capitulation is conceivable only under the most dire conditions and would involve a major surrender of our independence. The present deplorable situation at McGill must be remedied, but doing so does not require us to surrender the ideals and collegial institutions that, while sometimes abused, have served both academics and society well in the past.

Finally, despite the arguments to the contrary, **I believe that to embrace an explicitly adversarial relationship between university faculty and administrators will empower rather than weaken those who believe that universities should be run from the top down,** while at the same time removing much of the flexibility that over the years has permitted university departments and research units to adapt most efficiently to changing conditions.

For all of these reasons I believe we should not abandon our collegial form of government. Far from being an antiquated institution, as its critics allege, it may prove to be surprisingly well adapted to the complex and rapidly shifting political and economic environment of the 21st century.

**Bruce G. Trigger, Anthropology**

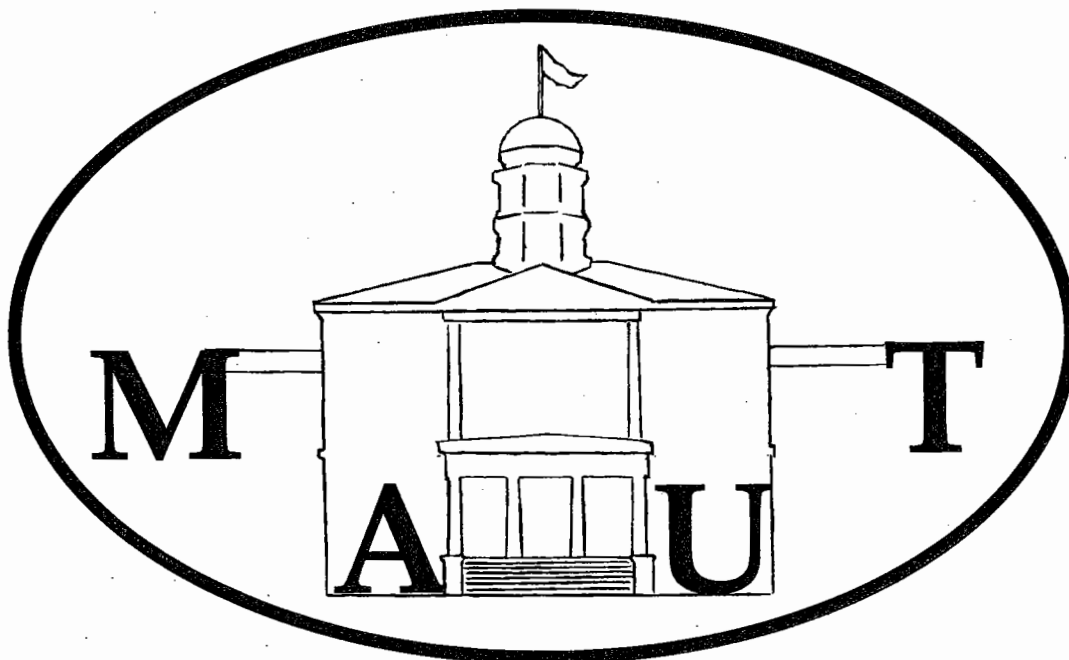
### MAUT EXECUTIVE, 1998-99

		Tel	Fax
President	Barbara Hales	3610	7120
President-Elect	Myron Frankman	4829	4938
Past President	Juan Vera	4274	6678
Vice President, Internal	Johanne Hebert	4782	5046
Vice President, Communications	Edith Zorychta	7245	7446
Vice President, External	Daniel Guitton	1954	7371
Secretary-Treasurer	Faith Wallis	5276	1498

### OFFICE STAFF

		Tel	Fax
Administrative Officer	Catherine MacAulay	3942	6937
Professional and Legal Officer	Joseph Varga	3089	6937

<http://www.mcgill.ca/maut>



Published by:

McGILL ASSOCIATION OF UNIVERSITY TEACHERS  
3495 Peel Street, Room 202, McGill University  
Montreal, Quebec, Canada, H3A 1W7  
Office: Tel (514) 398-3942; Fax: (514) 398-6937