

JACFA GENERAL ASSEMBLY

February 24, 2004

6 p.m.

01. Adoption of Agenda

Moved by Stephen Bryce; seconded by Pierre Gauthier. Adopted.

02. Adoption of Minutes

Moved by Roger Haughey; seconded by Pierre Gauthier. Adopted with two abstentions.

03. Announcements

Peter Solonysznyj announced that there will be a demonstration for International Women's Day on March 7 at 1 p.m. from Dominion Square and it has been organized to protest, among other issues, Charest's changes to the daycare system, including home daycare workers' right to unionize.

He also announced that JACASPA, our support staff union, has voted in favour of a 24-hour general strike. Their union central, the CSQ, will call the strike when judged appropriate.

He then introduced our guest, Jacques Bazinet, our legal counsel from FNEEQ.

1. Tribute to Victor Kravec

Dan Gryte and Chris Chadillon acknowledged the life and work of Victor Kravec.

2. Financial Motions

VOTE

(a) **JACFA Contribution to Support the 2004 Faculty Lecture Series/Simon Kevan Lecture - \$500.00**

Motion: Be it resolved that JACFA contribute \$500.00 to the 2004 Faculty Lecture Series / Simon Kevan Lecture. – Moved by R. Haughey, seconded by J. Burpee

Roger Haughey explained the motion and encouraged our members to act as lecturers. Participants who wish to share their research and personal experiences would be honoured at a reception afterwards.

The motion passed with one abstention.

(b) **International Women's Day Contribution \$300.00**

Motion: Be it resolved that JACFA allocate \$300.00 to Women's Studies and Gender Relations to support activities for International Women's Day to take place on Tuesday March 9, 2004. – Moved by V. Silver

The motion was seconded by Aniko Hill. Vivianne Silver thanked JACFA for their past support. On March 9, Donna Nebenzahl, editor of the women's section of the *Gazette*, will be the keynote speaker. She will share her experience writing *Womankind: Faces of Change Around the World* in the Agora at 1 p.m.; The contribution will pay for printing, refreshments and a small honorarium. Vivianne noted that she did not ask for money last year as she used money left over from the year before.

The motion passed unanimously.

(c) JACFA Contribution to *Guardian* Magazine - \$350.00

Whereas:

- *Guardian* Magazine has proven, over the past year of its publication, that it provides useful, thought-provoking, interesting commentary on news events; and

- *Guardian* also provides publication space for many John Abbott students in a context different from *Locus*, the literary magazine, and *Bandersnatch*, which addresses primarily John Abbott College events and has insufficient space for longer commentary on global issues; and

- *Guardian* would like to continue its practice of providing an issue (250 copies) every two weeks throughout the rest of the semester, and also needs equipment for both production and distribution:

*Motion: Be it resolved that JACFA contribute \$350.00 to Guardian Magazine. –
Moved by S. Stephenson, seconded by E. Moore*

As neither the mover nor seconded were in attendance, Peter Solonysznyj moved the motion, which was seconded by Mike Turner. Peter noted that the magazine is an interesting medium for students to express themselves

The motion was passed with one abstention.

3. Significance of Arbitration Decision Re: Rod Smith

VOTE

Whereas arbitrator Rodrigue Blouin has ordered the Administration to re-instate permanent teacher Rod Smith on a part time progressive basis over a three semester period starting January 2004,

Whereas the Canada Life Assurance Co. has refused to restore Rod Smith's disability benefits which it ceased to pay on April 1, 2003,

Motion: Be it resolved that the JACFA Executive is mandated to take legal action against Canada Life on behalf of Rod Smith to restore his disability benefits. – Executive Motion

Jim Leeke introduced Jacques Bazinet, who is our legal counsel from FNEEQ, to speak on the significance of this arbitration decision. Bazinet began by stating that Rod Smith had been on LTD for 10 years and that a new drug therapy was tried for his disability, which improved his condition greatly and his doctor decided he was ready to return to work. Several years ago, an agreement was almost reached with the insurance company and JAC Human Resources. At the last minute, negotiations failed. A grievance was filed and an arbitration decision was rendered November 2003. The arbitrator, Rodrigue Blouin decided in favour of Rod Smith and ordered that the College reinstate him 1/3 the first semester, 2/3 the next semester and full time thereafter. Blouin's decision was based on the employer's duty to accommodate the disabled under the Charter of Human Rights. This application of the Charter began in 1981 with religious beliefs, such as members of a religious faith who cannot work on Friday evenings. Back then, the judge ruled in favour of the employees. As long as there is not excessive constraint on the employer, then it has the "duty to accommodate" its employees. As this was the first time that this part of the Charter was applied to a

teacher in a college, Blouin came up with several principles: The main principles of the duty to accommodate are: 1) each case should be dealt with on an individual basis, 2) there must be a reasonable effort to accommodate the employee and failed accommodation does not equate dismissal 3) the teacher must be accommodated in a reasonable period of time 4) if the doctors determine that the teacher's chances of returning to work successfully are unlikely, this would constitute a reason not to accommodate. 5) the process should include a mechanism to extricate the parties if the return to work isn't successful. Rod's case is legally significant because it interprets the Charter on how to implement the duty to accommodate in a college situation. The general principles have been around since the early 1980s.

Jim Leeke spoke about the specifics of Rod Smith's case: Rod was hired by the College in 1971 and went on short-term disability in 1991 and long-term disability in 1993 with Canada Life, who took over disability payments from the College. During the winter semester of 2000, Rod responded successfully to a new treatment. Therefore, his doctor recommended a progressive return to work. Discussions with the College continued into the fall of 2000 and then the College wanted Rod to report to their doctor. The College's doctor concluded that while Rod was well at that time, he predicted that there was a good chance that he would relapse. In March 2001, the College fired Rod and JACFA filed a grievance because Rod's doctor disagreed. Between October 2002 to August 2003, four arbitration days were held. The arbitrator imposed a 1/3 return to work for this semester, 2/3 next year and full return to work in the fall of 2005. In April 2003, the insurance company's doctor said he was ready to return to work with 10 weeks of rehabilitation and then cut him off. When we received the arbitration decision, the College decided to ask a superior court judge for a judicial review to suspend the arbitration judgment on the basis of a the "balance of inconvenience" to the students, who would get a new teacher if Rod relapsed. The College agreed to pay Rod for 1/3 of his salary. On April 20-21, the College and JACFA will be back in court. Generally speaking, odds are against the College winning the appeal. However, Rod is not receiving benefits from the insurance company and he will not be teaching a 2/3 load until fall, so JACFA wants to sue the insurance company. We are in discussion with FNEEQ about who will pay for the legal costs, but Jim estimated that it will cost \$10,000 to \$15,000. We need a mandate from our members as we may end up footing the bill and expert witnesses cost money. The College has already spent between \$40,000 to \$50,000 trying to block Rod's return to work and an important principle being set here. JACFA is against the idea of firing teachers on sick leave and the College is already considering the dismissal of another teacher.

Michael Turner asked if insurance companies are allowed to walk away like this? Jim said yes but then we sue them. Rod has had no income since April 2003 until this January and is now only getting 1/3 of his salary.

Rod Smith stated that when he came back from Africa in 1969, he had malaria and while he was healing, he started displaying chronic depression because of a neuro-transmitter change. He continued to battle his disease and he collapsed in 1991, but he has finally found an anti-depressant that works.

Larry Weller spoke about his participation in the negotiations in 2000 and there was a deal with Canada Life and an understanding that Rod would go back to work gradually. He strongly supports this motion in an effort to influence Canada Life into paying Rod his claims. This is a classic example of groups paying premiums, but insurance company does not want to fork out for claims.

Vivianne Silver asked who argues on behalf of College. Jim stated Gerry Strachowski, who has been arguing that putting a teacher into a classroom who may relapse is a terrible prejudice against students. Yet, last week, the College took a teacher out of the classroom and made him an administrator. Vivianne asked if Rod's age is a factor in this dispute. Jim responded no.

Luigi Pasto asked about the basis for lawsuit. Jim responded that Canada Life should support Rod during the rehabilitation process as he cannot return to work full time. He noted that there is a possibility that we won't be successful. Canada Life will probably spend more than us in going to court. The College could have saved a lot of money if they had just let Rod come back for one course. Peter added that we want the same lawyer who won Rod's arbitration, Edward Kravitz, to fight the insurance company, and FNEEQ has agreed to give the required mandate. Peter spoke to the FNEEQ treasurer and explained that we may set a precedent.

Marcia Kovitz called the question; seconded by Vivianne Silver. The question was called with two opposed.

The motion passed unanimously.

4. Motion to advance \$5000.00

VOTE

Motion: Be it further resolved that JACFA advance Rod Smith the sum of \$5000. to be repaid from the disability benefits recovered by legal action from Canada Life and that the JACFA Executive is mandated to forgive all or part of the \$5000. advance if circumstances warrant it. – Executive Motion

Jim Leeke explained that this amount will give Rod a reasonable amount of money to live on until his salary is increased in fall 2004. He noted that if we are not successful against Canada Life, then voting in favour of this motion is mandating the JACFA executive to forgive all or a partial amount of the loan.

Chantal Pelletier noted that the amount does not seem high enough. Jim noted that it will be \$700 a month net as no deductions will be made. The amount cannot be increased from the floor and can only be done at a future meeting.

The motion passed unanimously.

5. Financial Statement

VOTE

Motion: Be it resolved that the 2002-2003 JACFA Financial Statement be accepted. – Executive Motion

Stephen Bryce presented the financial statement that was mailed to all faculty members. Revenues are up because of salary increases. Expenditures are also up but not by much. Donations and bursaries remained the same, but sometimes are billed in one financial year instead of another.

Larry called question; seconded by Pierre Gauthier.

The motion passed unanimously.

6. Future of Cegeps

DISCUSSION

Michel Milot stated that the existence of Cegeps is being questioned again. It previously happened during the reforms of 1992-93, the "White Paper on Cegeps" 1997, and now the "Plan de développement" by the Fédération des Cegeps, which was published in February 2003. The Fédération claims that their document is based on the consensus of stake-holders in the Cegep system. However, no teachers, no students and no staff were consulted, so there is a serious problem of legitimacy. The Fédération is advocating that Cegeps must adapt to the new reality of the world (produce more, compete more, adapt more). They believe that a DEC does not give students enough mobility and they cannot market themselves outside the province. They also challenge the fact that Cegeps are public, free and that career and pre-university programs share a common component, namely general education. According to the Fédération, Cegeps should be able to adapt rapidly to market demands and should foster a "client" approach. This will require new programs with different working conditions for teachers. They suggest being able to create program modules that can be offered in pieces to students.

The Fédération's plan is articulated around nine themes and proposes sixty-six tracks for the future of cegeps. Its principal orientation is the development of career programs. They would like to offer modules of training that would be in direct continuity with professional sector of high school: a student would obtain certification, without necessarily taking general education courses. These programs will compete with our current system of DEC's. They are also suggesting the possibility of DEC's with different lengths (a engineering technology program of four years at Abbott versus the same program of three years at Dawson, etc) This will reinforce competition between college and programs could be revised locally depending of the competencies needed in the region. When Gaetan Boucher questions the relevance of teaching humanities to future technicians, we have a problem. While the orientations of the development plan take into consideration the reality of students, should the future of Cegep be simply determined in terms of market demands? Shouldn't the colleges be involved in the same way as society?

The timing is good for the Fédération as new teachers are being hired and because of demographic problems in regional Cegeps. It also seems clear that the Fédération is trying to undermine some aspects of Cegeps : the rigidity of the collective agreement, the role of general education, the autonomy of departments, and professional autonomy. Michel read the following two quotes :

1. we have to move towards a greater flexibility in education and training. We have to take into account the diversity of clientele and demand.
2. We need differentiated institutions, institutions that respond to the changing demands of the economy. Adaptation strategies used by these institutions should include reallocation of resources from traditional to new areas of study, simplification of curricula and the creation of modular training programs to allow greater flexibility and responsiveness to students' needs and the diversification of funding sources.

Michel noted that these quotes could come directly from the Fédération's development plan; however, the first one comes from the *White Book on Education and Training* published in 1995 by the European Community and the second one comes from a text published last year by the World Bank entitled, *Constructing Knowledge Societies*. So the Fédération has nothing new to say; it is just simply responding to the pressures of the world economy on colleges.

There have been good reports from the CSE on the importance of general education in career programs since the reforms. The Estates General of 1996 expressed its belief in the quality of and importance of maintaining of Cegeps. In 2002, a forum on technical training ended with positive conclusions from everyone. It is also interesting to note that the development plan's emphasis on technology programs encouraged the Commission scolaire's position last fall that Cegeps should be abolished. For us it was clear that this

document would taint the CPNC's proposal in this round of negotiations, which Michel noted that Peter Solonysznyj will discuss in a few minutes.

Vivianne Silver commended Michel Milot for his presentation and asked for a resume, which appears in these minutes.

7. Negotiation Report

DISCUSSION

Peter Solonysznyj stated that:

Sector table demands (workload, etc.): were deposited a year ago. The CPNC deposited February 2 and included vague principles about the need for flexibility. We are beginning to see splits between the Ministry of education and the Fédération. The CPNC is in no rush. The trends being suggested are to use department allocation for program stuff, i.e. "flexibility" in how teaching resources are used; student success and graduation rates; permanent recuperation of 1.2% of salary mass, i.e. salary reduction as we used to get our raises in March, not August. Serious negotiations will only begin this fall or winter 2005 and they will be linked to the results of the College Forum.

Central table (salary and pension): CSN, CSQ and FTQ deposited a common demand of 12.5% over three years (4.5%, 4%, 4%) and have heard no response yet. Our pension negotiations will depend on actuarial report due late fall which will include how much money is currently in the pot and projections of future needs.

Pay Equity: union victory in court, chapter 9 on pay equity law suspended for six months to allow parties to fix application: The Treasury Board is under provisions of law now; the Treasury Board and Centrals are negotiating application; there is a possible salary impact on Cegep teachers due to our link with the primary-secondary salary structure.

April 1: CSN Public Sector negotiation mobilization day; more information to come; this day is to push for negotiations.

Regroupement Cegep Voting Procedure: There are 35 unions in FNEEQ's Regroupement Cegep. We vote on big issues such as a strike vote or collective agreement and we need a double majority (18 of 35 unions) **and** a majority of members voting, but there have been problems, so a committee was struck to examine the issue. The committee has proposed to keep a double majority (still need 18/35 unions) **and** a majority of dues paying members. For example, if for a strike vote, 60 of our members show up, the vote result is transposed onto our total of dues paying members. The American electoral college works in a similar way. The JACFA executive likes the old system. It will only be implemented next fall, if it is passed. We want to count the votes of each member, so that losing votes get counted too.

Roger Haughey pointed to the example of 2% for a contract negotiation and the double majority. Peter added that this 2% is still part of official negotiations. Michel added that he made a spreadsheet and with the new system we would have had the 2%.

Ryan Young moved to adjourned the meeting; seconded by Chantal Pelletier