

EXTREME ORGANISING: A CASE STUDY OF HIBERNIA

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INITIAL CONTACT

For some years, the Communications, Energy and Paperworkers Union of Canada (CEP) has been organising Québec silviculture workers. Organisers travel 200 kilometres or more along gravel roads to meet the *débroussailleurs* and *reboiseurs* on forest trails near their isolated *morceaux*: concession plots deep in the forest where they clear the brush and plant seedlings. But there are no roads, not even gravel roads, that an organiser can drive to the Hibernia offshore oil platform (www.hibernia.ca).

In June 1997, as the platform was towed from the Bull Arm construction site to its permanent location 315 kilometres south-east of St. John's, in the cold waters of the north Atlantic, CEP Atlantic vice-president Elmo Whittom asked national representative Ron Smith to prepare one of the most unusual organising campaigns in Canadian history.¹

A successful organising drive needs names, addresses and phone numbers. Chuck Shewfelt, CEP national representative in St. John's, obtained a list - incomplete, but a

start. The organisers spent hours pouring through phone books and street guides to refine the list as workers came and went.

Early on the union enjoyed a stroke of luck. The employer included an employee list with its submission to safety hearings. Unfortunately, the list included many start up workers who would not be members of the steady state staff. Still, it had value. But, keeping the list current was a hard slog. Ron Smith used the list to phone his initial contacts.

You reach the platform by helicopter or ocean-going vessel. Travel to the platform proved a serious challenge for CEP's organisers. In most organising campaigns you can talk to workers as they come off their shift, but not when the workplace is 315 kilometres out to sea.

Ray Cluney, a Grand Falls papermaker and Hibernia campaign organiser said: "You could stand outside with a bunch of flyers, but you'd better know how to bob." Bobbing in the frigid Atlantic being out of the question, the organisers sought other ways to contact potential members.

“Hibernia workers are three weeks on the platform, three weeks off. They only come home eight times a year,” says Ron Smith. “And when they get off that helicopter, they want to be headed home, not hanging around talking to some guy about the union.”

PLATFORM ACCESS

Ideally, organisers meet isolated workers at the work-site during off-hours. For most isolated workers, the law provides access for unions.

Ray and Ron had both worked on the Canadian Paperworkers Union drive (CPU was a CEP founder union) to organise Newfoundland loggers. Like the Québec organisers of the *débroussailleurs* and the *reboiseurs* they knew about long gravel roads and meetings in isolated parts of the forest, because the CPU organisers had the right to visit isolated logging camps to talk to the fallers, the cooks, the teamsters and the machine operators.

But, when CEP’s Hibernia campaign started, the legislation didn’t even contemplate platform access for union organisers. Not until early 1998 was the Newfoundland act amended to allow access to offshore workplaces.

By October 1998 CEP was ready to start signing cards. They chartered CEP Local 97 as the Hibernia local, to comply with Newfoundland legislation, which

recognises only Newfoundland locals as bargaining agents.

Clearly, it would help enormously if organisers could talk to workers on the platform and sign them up there. Ron Smith, Local 97 president, applied for access to the platform. The employer responded with a legal challenge.

Figuring out how to argue the access case was difficult. Chuck Shewfelt learned that the Newfoundland board had never published reasons for their decisions in the few cases where unions had applied for “access to employees living in an isolated location on premises owned or controlled by their employer.”²

The Canada Labour Relations Board wasn’t much better, but the 1980 Dome decision [2 Can LRBR 533] did say employer concerns about production could not trump employee rights. The Dome decision even gave unions access to Arctic drilling ships during working hours, although this was subsequently challenged and modified. In the end, despite hearings that lasted for days and dragged on for months, no organiser made it to the platform to talk to the workers, except at vote time, because the employer threw in so many legal challenges. That’s why Ron Smith had to phone people.

COMMUNICATIONS

Ron phoned the Hibernia workers, and he wrote them. By late 1998,

every platform worker had received at least three letters. More followed the next year. That was when rumours began about other unions sniffing around.

Through 1999 Local 97 maintained a constant campaign of telephone calls, letters, leaflets and home visits. The home visits were essential, but enormously time consuming.

“They live all over the Island,” says Ray Cluney. “To see one guy, then another, you could be travelling for three or four hours. You might knock on his door and he’s not home.”

The organisers identified which newspapers, radio stations and TV shows were most popular on the platform and bought print, radio and television advertisements. The ads did not come cheaply.

Offshore workers regularly use the Internet and e-mail to communicate, so CEP set up a Hibernia web site. This pioneering effort carried regular campaign updates and messages of support from CEP locals across the country, particularly energy locals. Unions had little experience with this form of communication. The Hibernia web site became an important proving ground.

A web site is useful, but you cannot sign up on the web. In subsequent campaigns CEP posted membership application cards on the web. These cards are printed, signed and witnessed like regular cards, and returned to an organiser.

It will be better when people can sign up right on the web, but no Canadian jurisdiction allows this yet.

MOTIVATION

Ron Smith said: “One of the first calls I made, the person said: ‘I go to work in a \$30 million helicopter, I make \$90,000 a year, and I live in a five star hotel. What’s the union gonna do for me?’

“I said, ‘Well let’s hurt your back and let’s see how many times you get into this \$30 million helicopter.’

“He said: ‘It’s never going to happen to me.’ But I said, ‘Think about your buddy. What happens if it happens to him?’

“After about a year of talking like that a few people got sick and some did eventually get hurt. It started to soften. We had some people inside who would co-operate with us.”

Just after the union’s access application, Keith Kleinwachter started as a full-time organiser. Keith had organised the Nanacoke oil refinery. He was an energy worker, knew the industry, talked the talk. A whole new group of Hibernia workers started to come around.

In early January 1999, Brian Campbell joined Ron and Keith. Brian was a Newfoundlander with considerable energy sector experience – former president of CEP’s Suncor oil sands local in Fort McMurray, Alberta. Like Keith, he talked the talk. Unfortunately, after

four months Keith suffered a heart attack. Ray Cluney replaced him.

In many organising campaigns the employer becomes the union's biggest ally, albeit unwittingly. Hibernia Management and Development Company Limited (HMDC; table 1) proved no exception.

HMDC caused great dissatisfaction in April 1999. They released performance evaluations many felt were totally unfair. They told employees they had to be more flexible or go home. They said people would have to go to another project, Terra Nova off Nova Scotia, whether they liked it or not.

The dissatisfaction translated into signed cards. Brian, Ray and former Steelworker Harold Hawco drove thousands of kilometres around the province to meet Hibernia workers on their shore time. Although, in Ray's words, "the fear factor was tremendous", card signing climbed.

"What changed the campaign with Hibernia was when they got first oil," said Ray. "They had promised many people steady state

jobs. When they achieved first oil they laid off 25. Greed kicked in. There were people they'd given guarantees to. Others felt vulnerable. They knew they'd been fed a line. They needed to get security and they knew that was with a union."

INTER-UNION RIVALRY AND COOPERATION

CEP, by far the largest oil and gas union, in a labour act brief well before the project started, identified itself as the union best able to represent Hibernia workers.

In early 1997, the Newfoundland Federation of Labour, to forestall jurisdictional disputes, called a meeting to decide which union should have first shot at organising Hibernia. All present, except the Marine Workers (CAW), agreed it should be CEP. The Steelworkers even offered CEP assistance.

But, in early 1999, about a year and a half into CEP's campaign, it became clear that the Teamsters and the Fish Food and Allied Workers

Table 1: Hibernia Ownership

Hibernia is jointly operated by:
 ExxonMobil Canada (33 %)
 Chevron Canada Resources (27%)
 Petro-Canada (20%)
 Canada Hibernia Holding Corporation (8.5%)
 Murphy Oil (6.5%)
 Norsk Hydro (5%).

HMDC (Hibernia Management and Development Company Ltd.) is the licensed operator of the Hibernia platform, which it operates in conjunction with various contractors.

(CAW) were approaching Hibernia workers to join their unions. CEP's organisers felt they had just paved a road that others were about to drive along. Convincing Hibernia workers that they needed a union had been tough. Now that significant numbers were interested, rivals were looking to reap where CEP had sown.

CEP President Fred Pomeroy approached the two union heads. The Teamsters withdrew, but CAW refused to back off. This presaged later troubles between CAW and SEIU, which led to CAW's temporary exclusion from the Canadian Labour Congress.

The United Food and Commercial Workers' approach was in line with the best traditions of union solidarity. May 11, 1999, Tom Kukovica, UFCW's Canadian head, wrote CEP. UFCW Local 1252 had started to organise Hibernia, realised CEP was already there, and stopped their campaign. Kukovica's letter included the complete UFCW contact list.

By contrast, on May 13 1999, CAW organiser Bob Baker sent Hibernia workers CAW cards and the first, glossy issue of "From Rig to

Shore". Issues #2 and #3 followed in August and October. Another union's presence bred confusion amongst Hibernia workers. Many signed cards with both, just to cover themselves.

On Friday, November 12, 1999 FFAW (CAW) applied for certification with only 191 cards. This premature move caused serious problems for them and for CEP. It put the Hibernia organising campaign in jeopardy. CEP applied for certification the following week with 229 cards and many misgivings.

Union - employer wrangles over voting procedures were eventually settled. On 3 and 4 December 1999 two separate votes, one for FFAW (CAW) and one for CEP Local 97, were held concurrently on the platform (table 2). Ray Cluney, after survival training that included escape from a submerged helicopter, was CEP's scrutineer.

SINGLE AGENT, SINGLE UNIT

To avoid jurisdictional disputes, the offshore legislation allowed recognition of only one bargaining agent at Hibernia. This parallels

Table 2: Hibernia Union Representation

CEP:	Hibernia platform workers
USWA:	Wiffenhead Storage Tanks
CAW/Marine Workers:	Tankers
SIU:	Supply Vessels

Norway, where a single union represents all workers at a given work site or corporation. The Norwegian law also requires at least one third of company directors be employee representatives. The drafters of the Newfoundland legislation never contemplated that! The construction unions who built the platform at Bull Arm established a single bargaining council: the Offshore Development Council (ODC). But, as Oilweek reported, December 1996:

“according to some companies and unions ...the ODC failed to provide adequate efficiency at the work site, and Hibernia became a bureaucratic nightmare replete with duplication, intra-union spats, and padding of the workforce.”

When construction ended, recognition of the ODC ended too. Those hired to operate the platform were without union representation.

When Bill 52 to amend the Newfoundland Labour Relations Act was at committee stage, CEP had presented a brief. “CEP strongly suggests single bargaining units because it provides for more consistency.” The union cited problems with the fifteen bargaining units at Atomic Energy of Canada’s Chalk River facility.

The legislation once adopted read: “the unit appropriate for collective bargaining is the unit comprised of all the employees employed on the platform except those employees the board

determines are employed in construction and start up on the platform.” So, when CEP started the campaign, there was no possibility of organising part of the workforce. It had to be all or nothing.

The voting which started on the platform in December 1999, continued ashore and then by mail into the New Year. But, another frustration: HMDC challenged the scope of the unit. The count was put on hold.

Employers often mess with the unit description. They try to add supervisors and anti-union workers and remove union supporters. As CEP had feared, HMDC inflated the size of the unit and contested the positions of several people they suspected had signed union cards.

On July 24, 2000 the first of 35 days of certification hearings started. They dragged on until February 16, 2001.

Devastating news finally came on March 30, 2001. The board ruled neither union had the 40% of signed cards required for the ballots to be counted. CEP had lost by a hair: four cards short! The count was cancelled.

SUCCESSFUL CERTIFICATION

In a very unpopular move in February 2000, HMDC replaced the Gainshare programme with an inferior bonus system. With employees’ feelings running high, AOC Brown and Root Canada, part of the management consortium, then

laid off 25 workers: pipe fitters, welders, deckhands and caterers.

CEP immediately filed unfair labour practice charges. The first of many days of hearings on the affair started. Although CEP was not certified, and not receiving a cent in dues, the union was supporting and representing Hibernia workers.

So, when the count was cancelled March 30, 2001, the Hibernia workers made it clear they wanted a union and they wanted that union to be CEP.

A statutory freeze prevented CEP Local 97 and the FFAW local from resuming their campaigns. So, CEP Local 60N started a quick, new drive. A majority of Hibernia workers scrambled to sign cards. They had appreciated CEP's support over Gainshare and the 25 lay-offs.

When Local 60N applied for certification, the employer demanded the labour board review the composition of the bargaining unit, which had just been decided after months of hearings. The board had none of it, ruled against the employer and said the vote would go ahead.

HMDC insisted Ray Cluney undergo further survival training. This time, he had to escape from three different kinds of simulated helicopter crash. He passed these new tests with a red face, wet hair and flying colours.

When Ray arrived on the platform as scrutineer for a new vote, with only CEP on the ballot, the workers welcomed him with

open arms. The on shore and mail-in votes concluded September 7, 2001.

20 September, the board ruled the vote would be counted on September 24, 2001. But, the day after the board ruling, the employer obtained an injunction from Mr. Justice Adams of the Supreme Court of Newfoundland to stop the count.

More frustration, but the delay was only temporary. The vote was counted, October 10, 2001.

Of 400 people eligible to vote, 375 cast a ballot, 233 for CEP, 141 against and one spoiled ballot. Two thirds of the ballots were for CEP, making Hibernia's the first off shore workers in Canada to be unionised.

THE STRUGGLE CONTINUES

CEP's offshore struggle continues what has been a long journey (table 3). HMDC asserted that the Local 60N campaign to organise Hibernia was no different from the Local 97 campaign, so the statutory freeze on organising immediately after a failed certification attempt should apply. This, after a clear majority of their employees had unambiguously indicated they wanted to be represented by CEP. The union is fighting this assertion.

HMDC also challenged the labour board ruling in support of CEP and the 25 laid off employees. July 12, a Newfoundland judge ruled in the employer's favour. At first blush, it seemed the judge, with only a Reader's Digest version of the

Table 3: A Chronology of Organising Hibernia, 1997-2002

Early 1997	Newfoundland Federation of Labour meeting. All present, except Marine Workers (CAW), agree CEP should have the first shot at organising Hibernia. CEP starts preliminary campaign work.
June	Platform towed from Bull Arm to its site 315 kms. south east of St. John's. Phone campaign starts.
17 Nov	Production starts
Early 1998	Newfoundland legislation amendment allows access to off shore workplaces.
Oct.	CEP Local 97 receives charter. Sign up campaign starts
Late Oct.	Section 34 application for access. (Process lasts months, proves fruitless.)
16 Nov.	Keith Kleinwachter starts on Local 97's sign up campaign.
30 Nov.	Ron Smith has now sent three different letters to Hibernia workers.
7 Jan, 1999	Brian Campbell starts on Local 97's sign up campaign. Rumours Teamsters and CAW are trying to contact Hibernia workers. Teamsters send leaflet to Hibernia workers
Feb.	Fred Pomeroy contacts heads of Teamsters and CAW.
21 Mar.	Ray Cluney replaces Keith Kleinwachter.
April	Employer refuses to distribute mail from CEP on the platform. Performance evaluations released – cause great dissatisfaction Employer says: Be more flexible, or go home Employer says some workers will have to go to Terra Nova, like it or not.
11 May	UFCW stops Hibernia organising drive when they learn CEP is there.
13 May	CAW sends "From Rig to Shore", issue #1 and cards to Hibernia workers. Through the year CEP keeps up campaign of telephone calls, home visits, letters leaflets and web site updates. Buys print, radio and TV advertisements.
12 Nov.	FFAW(CAW) applies for certification. Claims to represent 191 of 300 employees
18 Nov.	CEP Local 97 applies for certification, with cards for 229 of 300 employees. Hibernia had said the bargaining unit was 325 at most. They now add to the list.
Nov.	CEP energy locals send messages of support via the CEP web page.
3, 4 Dec.	Two separate votes (CAW and CEP) held concurrently on the platform. Voting continues at the Airport Plaza Hotel, then by mail
Feb. 2000	Company replaces Gainshare Program with a bonus system.
17 Feb.	AOC Brown and Root Canada Ltd. lay off 25 workers.
24 Feb.	CEP files unfair labour practice charges with the board over the 25 layoffs and the Gainshare problem.
24 July	32 days of certification application hearings start
Early 2001	CEP Local 60N starts to plan a campaign in case Local 97 loses.
16 Feb.	Certification hearings end.
March	Board rules 421 employees in bargaining unit. Neither union has 40% required to have the ballots counted. (Local 97: 4 short.)
April	Local 60N starts sign up campaign.
22 May	Local 60N applies for certification
28 May	Employer claims Local 60N cannot apply to represent Hibernia employees.
8 June	Board rules the freeze does not apply to Local 60N. The vote can go ahead.
3 July	Final vote starts on the platform for two different crews. (3, 4 July, and 24, 25 July).
7 Sept.	Last day for mail-in vote.
20 Sept.	Board rules vote will be counted Monday, 24 September, 2001
21 Sept.	Mr. Justice Adams grants the employer an injunction to stop the count.
10 Oct.	Vote counted. 233 for CEP, 141 against. CEP certified.
2002	Labour board rules in CEP's favour in 25 lay-offs case
12 July	Judge reverses labour board ruling in 25 lay-offs case

evidence, substituted his own decision for that of a board which went through 19 months of detailed hearings. The union is going to the Court of Appeal.

Sadly, although the law may not be an ass, it is no racehorse either. It plods along like a heavily laden Newfoundland pony. The longer the process takes, the harder it becomes for the union and the potential union members. CEP's ten-year pay equity fight with Bell Canada is another example of this. A right delayed is a right denied.

The corporations that own Hibernia have the deepest pockets in the world. The financial burden of going to court is much lighter for them than for the union.

There is the problem of morale. CEP is finding it hard to put together a bargaining committee at Hibernia. If the union loses the current employer appeal, people are afraid those who put their heads up will be targeted.

But, if a union wants the respect of potential members, it must ensure they know they will be supported to the bitter end. It's the right thing to do; it's the practical thing to do. It is what CEP is doing at Hibernia.

producer Don Bouzek as part of CEP's First Ten Years project. Jamie Swift's book *Walking the union walk: stories from CEP's first ten years* and Don Bouzek's videos will be available from CEP later in 2003.

2. www.gov.nf.ca/labour/labour/labour_relations_board.

NOTES

1. Robert Hatfield was involved in CEP's Hibernia organising campaign from 1998 to 2001 as CEP Director of Organising. This article is based on his own experience and on interviews conducted by author Jamie Swift and video