IN THE MATTER OF AN ARBITRATION

BETWEEN:

UNIVERSITY OF BRITISH COLUMBIA

AND:

UNIVERSITY OF BRITISH COLUMBIA FACULTY ASSOCIATION
(SALARY INCREASES FOR 1989/90)

A W A R D

ARBITRATION BOARD:	Leon Getz Stephen Kelleher Hugh G. Ladner, Q.C.
FOR THE UNIVERSITY:	T. Roper
FOR THE FACULTY ASSOCIATION:	Dr. J. Cragg
DATES OF HEARING:	August 8, 9, 10 and 11, 1989
DATE OF AWARD:	September 26, 1989

81/54052-02

AWARD

1. INTRODUCTION AND BACKGROUND

The purpose of this Award is to settle a dispute between the University of British Columbia and its Faculty Association concerning faculty salaries and certain related matters for the 1989-90 academic year commencing on July 1, 1988, and ending on June 30, 1990. The proceedings have been conducted pursuant to an Agreement on the Framework for Collective Bargaining entered into between the University and the Faculty Association on April 3, 1979, as amended on February 7, 1985. The Agreement is generally and conveniently referred to as the "Framework Agreement". The general scope of arbitration pursuant to the Framework Agreement is described in section 8.01 as embracing:

> a. salaries of all persons for whom the Association is the bargaining agent, excluding the salary for administrative duties;
>
> b. matters relating to the professional position of members of the bargaining unit and having economic implications for the University, such as leave of absence (paid, unpaid, political leave, maternity leave) and related matters;
>
> c. economic benefits for members of the bargaining unit such as the University's contribution to medical, dental and pension plans, and other benefits.

The central provision of the Framework Agreement, so far as the present arbitration is concerned, is section 12.02 (f). It is as follows:

> (f) In making its award, the Arbitration Board shall give first consideration to the University's ability to pay the cost of an award from its general purpose operating fund.
>
> In doing so, with due regard to the primacy of the University's academic purpose and the central role of faculty members in achieving it, the Arbitration Board shall take account of the University's need to preserve a reasonable ratio between the salary of members of the bargaining unit and other expenditures.
>
> If the Arbitration Board is satisfied that the University has the ability to pay the cost of an award, it shall base its award on the following criteria:
>
> (i) the need for the University to maintain its academic quality by retaining and attracting faculty of the highest calibre;
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> (ii) changes in the Vancouver and Canadian Consumer Price Indices; changes in British Columbian and Canadian Average Salaries and Wages; and
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> (iii) salaries and benefits at other Canadian Universities of comparable academic quality and size.

On April 17, 1989 the three members of this Board published an Award with respect to salaries of members of the Faculty Association and certain related matters for the academic year 1988-89 (the "1989 Award"). In the 1989 Award we made certain observations concerning the Framework

Agreement, the scope of our jurisdiction under it and, in particular, the use and meaning of the expression "ability to pay" in Article 12.02 (f), and the relationship of that expression to the language in the same provision, and concluded that account must be taken "of the University's need to preserve a reasonable ratio between the salary of members of the bargaining unit and other expenditures."

In the present proceedings, the parties have broadly speaking accepted our analysis of the relevant parts of the Framework Agreement, and their Submissions to us in the present Arbitration have been based upon that analysis. It is accordingly unnecessary for us to repeat the detailed exploration of the meaning of the Framework Agreement that we attempted in the 1989 Award, though we will have occasion elsewhere in this Award to refer to certain parts of our 1989 Award.

2. <u>THE POSITIONS OF THE PARTIES</u>

The final position of the University coming into this Arbitration is as set out in a letter dated June 23, 1989, written by Dr. A. J. McClean, the Associate Vice-President (Academic) of the University, to Dr. John Cragg, Chairman of the Salaries and Economic Benefits Committee of the Faculty Association. Dr. McClean wrote:

> I set out below the University's proposal for a salary settlement for the year July 1, 1989 to June 30, 1990; all of the adjustments to become effective as of July 1, 1989.

1. **Summary of proposed increases for continuing members of the bargaining unit, other than general librarians and sessional lecturers**

Career Progress Increments	1.5%*
Merit Awards	.75%
Anomaly and Inequity Adjustments	.75%
General Increase	4.5%
Special Salary Adjustment - Full Professors - $1,000 each	(approximately .7%)

* The Career Progress units carried forward on promotion are to be paid out of this amount. On this basis the estimated value of a Career Progress unit is approximately $940.

2. General librarians

Salary scale:

0	$ 30194.81
1	31827.38
2	33459.94
3	34685.01
4	35908.80
5	37133.86
6	38357.65
7	39582.71
8	40806.50
9	41622.78
10	42439.06
11	43255/34
12	44071.64
13	44887.92
14	45704.30
15	46112.98
16	46520.48
17	46929.26
18	47336.77
19	47745.54
20	48153.05

Salary increases for general librarians: the general increase (4.5%) or the amount needed to increase a salary to the appropriate point on the scale, whichever is the greater.

3. **Sessional lecturers**

Increase in the minimum salary for sessional lecturers from $2,236.68 to $2,550.00 per month.

Salary increases for continuing sessional lecturers: the general increase (4.5%) or the amount needed to increase a salary to the minimum salary for sessional lecturers, whichever is the greater.

The position of the Faculty Association was set out in a brief letter from Dr. Cragg to Dr. McClean dated August 1, 1989. Dr. Cragg wrote:

> I enclose a summary of our requests which indicates the issues in dispute. The only items that are not in dispute are the total of 3% for the Career Advancement Plan, although we would have it apply to librarians and continuing sessional lecturers, and the minimum salary for sessional lecturers without Ph.D.s of $30,600 per annum pro-rated for the period of employment. The exact figures will be revised on the basis of the recently supplied information, but I presume you would rather not wait for incorporation of this information.

The Summary referred to is as follows:

SUMMARY OF REQUESTS

A. SALARIES

1. **General Increase** **6%**

A general increase of 6% to be phased in as follows:

July 1, 1989	4.5%
January 1, 1990	0.5%
April 1, 1990	1.0%

2. Career Advancement Plan **3%**

Consistent with agreements over the past decade, 3% of the salaries of continuing members of the bargaining unit should be allocated to the Plan as follows:

Career Progress Increments	1.50%
Merit	0.75%
Inequity and Anomaly	0.75%

In addition, we propose:

(a) Additional Career Progress Increments resulting from promotion will continue to be a charge against the Inequity and Anomaly Fund;

(b) Amend the Career Advancement Plan for programme directors to follow the same plan as the general librarians;

(c) Sessional lecturers appointed in the previous year to receive Career Progress Increments, Merit, and Inequity and Anomaly payments in addition to their minimum salaries.

3. Minimum Salary

(a) The minimum annual salary for faculty with a Ph.D. including professors; associate professors; assistant professors; instructors and lecturers to be adjusted to $34,000 and to $30,600 for those without a Ph.D. Each minimum to be pro-rated for those members with appointments of less than 12 months.

(b) The minimum salary for librarians to be adjusted to $30,600. The schedule of experience-related minimum salaries to be based on the Career Advancement Plan for librarians (Schedule A attached).

4. Special Equity Adjustments **11.31%**

The Board is asked to direct the Parties to negotiate the distribution of this sum with negotiations to be complete within 60 days of the Board's making its award. In the event that negotiations are not successfully completed by that time, the fund will be distributed as follows:

(a) Gender Equity Payments $245,000

(b) Payments, not to exceed 20% of the fund, to bring all salaries up to a target minimum schedule based on

(i) the minimum salaries in (3)

(ii) the schedule of Career Progress Increments (Schedule B attached)

In the event the awards are inadequate to remove these inequities fully, payment to individuals will be in proportion to the amounts named.

(c) Implementation of the minimum experience-related schedule of salaries for librarians 3 (b)

(d) Awards to be given in equal amounts to each librarian (general and administrative) totalling 11.31% of salaries in the library less the cost of implementing (c).

(e) The remaining monies to be distributed to professors and associate professors with equal amounts for individuals in each rank and with the payment to each professor to be 1.44 times the payment to each associate professor.

B. RESEARCH ALLOWANCE

A research allowance of $750 per year per bargaining unit member. This will be instituted as of January 1, 1990 with expenditures in the period January 1, 1990 to June 30, 1990 limited to $375.00 per member. The cost of this program in fiscal 1989/90 will be covered by reducing the general increase of each member taking effect July 1, 1989 by $250 per annum

C. STUDY AND PROFESSIONAL IMPROVEMENT LEAVES

Adjust study and professional improvement leave provisions for faculty, librarians and programme directors as follows:

* 15% of salary to be accrued for each year of full-time service since appointment or since last leave to a maximum of 90% of salary;
* leave may be taken in full year or six-month periods so that a member may take six months' leave at 90% of salary after three years and 12 months' leave at 90% after six years;

* service prior to July 1, 1989 to be counted since initial appointment or completion of last study leave or professional leave (whichever is less) up to a maximum of five years. Service after July 1, 1989 will be cumulated with this total and salary eligibility will be lost only as study leave salary is paid;

* study leave may not be taken more frequently than once in any four-year period except that a full year's leave may be split into two non-adjacent 6-month periods;

* leaves for other periods may be arranged between the member and the appropriate University official for periods of other lengths of time under the same relationship of salary to service.

There is one minor difference between the position of the Faculty Association as initially set out on August 1, and that which it advanced at the hearing. The difference relates to the Special Equity Adjustments, with respect to which the percentage increase requested at the hearing amounted to 11.39, compared to the 11.31% put forward by Dr. Cragg on August 1. The possibility of such a difference arising was contemplated in the covering letter sent by Dr. Cragg to Dr. McClean. No point has been made of that difference, and we do not think that anything turns on it.

3. ABILITY TO PAY AND THE PRESERVATION OF A REASONABLE RATIO

(a) The appropriate "reasonable ratio"

In the 1989 Award we concluded that the language of Section 12.02 (f) of the Framework Agreement

> imposes an obligation upon us, in giving first consideration to the University's ability to pay, to take account of its need to preserve a reasonable ratio between faculty salaries and other

> expenditures. The two concepts thus become inextricably interlinked. The parties have agreed that the University has the ability to pay an amount in respect of faculty salaries if doing so preserves a reasonable ratio between that amount and other expenditures.

We next considered the matter of how a judgment might be made as to the reasonableness of a given ratio, and concluded that we could only give effect to the requirement of the Framework Agreement that our Award should "preserve" a reasonable ratio by giving effect to the existing ratio reflected in the 1987-88 fiscal year. "Any other ratio," we said, "would have to be invented or resurrected". The particular ratio established in 1987-88, according to the method of calculation that we considered proper, was 42.1%.

We also considered what we described as "an alternate view of the phrase 'preserve a reasonable ratio'", under which an assessment "based upon such considerations of reasonableness - unidentified in the Agreement - as the arbitration board considers it appropriate to take into account" would be called for. We concluded that on the assumption that the alternate view was the correct one, the 1987-88 ratio, having been the product of what we described as "free collective bargaining", was "the most reliable index of reasonable in the circumstances," and hence the applicable ratio.

In the present arbitration the Faculty Association, while accepting the general approach that we had outlined and adopted in the 1989 Award, disagreed with the conclusion that we had reached, that 42.1% was the appropriate ratio. The Association described this as based on a "significant error of fact" in the 1989 Award. The error in question lay, it was suggested, in our conclusion that 1987-88 salaries were the outcome of free collective bargaining. The Association did not dispute that if the 1987-88 settlement had been the product of free collective bargaining, it might, on the alternate view of "reasonable ratio", be an appropriate index. But, said the Faculty Association, that settlement was reached in an environment of legislated pay restraint, and so "in no sense was this unconstrained, free bargaining." The Faculty Association accordingly contended that, that error having been made, the question of which ratio to use was *res nova*, once again properly before us, and we were at large to look for an alternate "reasonable ratio."

The University took issue with the suggestion by the Faculty Association that it is open to us now to adopt as reasonable a different ratio than the 42.1% that we adopted in the 1989 Award. The University objected that (1) our earlier interpretation of the Framework Agreement and adoption of 42.1% as the appropriate ratio to be preserved, are both *res judicata*; (2) alternatively, we did not make the error attributed to us by the Faculty Association; (3) in the further alternative, our reliance upon the 1987-88 ratio was, in itself, an alternative and subsidiary basis for our conclusion. In any event, the University says, the circumstances surrounding the 1980-81 salary settlement upon which the Faculty Association relies, suggest that it is not a persuasive guide in the present arbitration.

The Faculty Association's assertion of error is predicated upon the hypothesis that had there not been an "atmosphere" of legislated pay restraint surrounding the negotiations leading up to the 1987-88 agreement, some other settlement would have been arrived at than the particular settlement that was reached. The problem with an hypothesis of this sort is that it can neither be proved nor disproved. At an intuitive level, perhaps, it seems plausible. But, as the University pointed out, at least two agreements - those in 1983-84 and in 1984-85 - negotiated during the period of legislated pay restraint provided for salary levels below what would have been permitted under the applicable legislation. Who is to say that the same might not have occurred in 1987-88? The simple point, as it seems to us, is that the Faculty Association's attribution of error is based upon a mere speculation. If there was an error, it was an error of characterization. We are not persuaded that it was an error of substance. The Faculty Association's speculation seems to us to provide us with nothing better.

Since the essential foundation for the Faculty Association's contention that we are entitled to revisit the matter of whether 42.1% is the proper "reasonable ratio" is, in our view, unsound, it is not necessary for us to consider the other arguments raised by the University in this connection, and we confirm our view that given the reasoning in the 1989 Award, the appropriate ratio for 1989-1990 is 42.1%.

(b) Whose salaries should be considered?

The Faculty Association Submission asserts that the ratio "has been calculated on inappropriate data". It continues:

> The ratio involved in the Framework Agreement is that between salaries of members of the bargaining unit and expenditures out of the general purpose operating fund. We use the arguments concerning academic salaries because that is the closest item available from the financial statements, not because it is appropriate. Figures for expenditures out of the General Purpose Operating fund for salaries of the bargaining unit for 1987/88 and 1988/89 were finally provided to the Association on July 28, 1989. Unfortunately, the latter figure appears not to include increases based on the [1989] Award. We thus do not know the ratio for 1988/89 and the Administration claims it cannot be calculated for earlier years.
>
> We would therefore ask the Board to take two steps: 1) [this has been dealt with under the preceding sub-heading]; 2) to proceed to make an award without delay this year on the basis of the inappropriate figures, but also to direct the University to prepare and provide to the Association audited statements of expenditures on salaries of members of the bargaining unit out of the General Purpose Operating Fund so that in the future Arbitration Boards are actually in a position to implement the provisions of the Framework Agreement and in the hope that better provision of information will enhance

> the chances of the two sides' reaching agreement.

The University's response to this point is as follows:

> First, the ratio has always been calculated on [the basis of academic salaries as a proportion of total expenditures]. All prior arbitration boards, including this Board last year, have calculated the ratio utilizing academic salaries, without objection from the Faculty Association. Secondly, the ratios set out in . . . the Association Brief (page 4-9) all include non-bargaining unit salaries as a portion of academic salaries . . . . Thirdly, the amount available for salary increases is determined by including revenue generated by non-bargaining unit activity. This year, fourteen million dollars revenue (total expenditures) is derived from non-credit courses. Only 18% of this revenue is allocated to academic salaries (non-bargaining unit). Thus, the bargaining unit benefits from the inclusion of these revenues (expenditures) to the extent of 42.1% of these funds generated by non-bargaining unit faculty.

The Faculty Association's point in this connection is really tantamount to an assertion that there was another significant error in the 1989 Award, and it may be that, on the literal wording of the Framework Agreement, that is correct. On the other hand, the point was not taken in the proceedings which led to the 1989 Award, which were in all other respects hotly contested and elaborately argued. In these circumstances, and all other considerations aside, there is an inherent unfairness in our acceding to the point - assuming it to be sound - now, and we accordingly decline to do so.

We accordingly affirm that the appropriate ratio of academic salaries to the General Purpose Operating Fund is 42.1%.

(c) <u>The size of the General Purpose Operating Fund</u>

For the purposes of these proceedings, the University tendered a forecast of its expected revenues for the 1989-90 fiscal year prepared by Mr. James Cosh, of Thorne Ernst & Whinney, Chartered Accountants. Mr. Cosh gave evidence in these proceedings as he had done in the proceedings leading to the 1989 Award. His qualifications as an expert in these matters were accepted in the prior proceedings, and were not challenged in these. His credentials are impressive.

For reasons that we explained in the 1989 Award and do not need to repeat, the University cannot spend more than it receives. It is also, for reasons explained in the 1989 Award, a reasonable, and perhaps unavoidable, assumption that expenditures will be equal to revenues.

Mr. Cosh forecast revenues for 1989-90 of $281,996,000, from which $1,100,000 was deducted for certain dedicated purposes, leaving a balance of $280,896,000 as the available general purpose operating fund. None of these amounts was disputed by the Faculty Association, and we accordingly accept the latter figure as representing the total base to which the percentage of 42.1% must be applied. This produces an amount of $118,257,000 as being the appropriate aggregate cost of faculty salaries for 1989-90.

Mr. Cosh deducts from the $118,257,000 an amount of $105,398,000 actually spent on faculty salaries in the 1988-89 fiscal year, leaving a balance of $12,859,000. It is common ground that the whole of this sum is not available for salary increases in respect of 1989-90, and that certain deductions must be made. The uncontentious deductions are:

Amounts formerly paid out of the Fund for Excellence in Education, and now to be paid from the General Purpose Operating Fund	2,430,000
Certain additional instructional expenditures	840,000
Costs of 1989 Award payable in fiscal 1989-90	3,250,000
New faculty positions	170,000
Total:	6,690,000

Taking into account these agreed deductions, then, we are brought to a figure of $6,169,000 (i.e. $12,859,00 less $6,690,000) available for increases in faculty salaries without reference to any items in dispute. To this there must be added an undisputed amount of $670,000 representing savings from faculty positions retrenched or not filled, which brings us to $6,839,000 after non-contentious adjustments.

We come now to the items in dispute.

It is agreed that an addition should be made for what are described as "turn-over savings" - that is, the difference between the cost of a senior member of faculty who ceases to be employed by the University for some reason such as retirement, and the cost of a more junior replacement. What is in dispute is the amount to be added back in respect of this saving. The Faculty Association says that this amount should be $1,750,000. The University would add back only $330,000, and supports this with detailed calculations. The explanation for the difference between the two amounts and the basis of the Faculty Association's position, is highlighted in the following extract from the Reply Submission of the University:

> With specific reference to turnover savings discussed at page 4-4 of the Faculty Brief, Mr. Cosh's analysis provides a detailed projection of turnover savings. That analysis will, in itself, refute the Faculty Association's projection of turnover savings. However, it is readily apparent that the Faculty Association's projection is seriously flawed. First, it assumes that a typical retiring faculty member receives roughly 2.5 times more salary than the starting salary in his discipline. If one assumes a starting salary of, say, $40,000, this would mean that the typical retiring faculty member is earning $100,000 per annum. Second, the projection assumes that all retiring faculty are replaced by those commencing their academic careers. This is not always the case. Third, the number of people involved in the Faculty Association's calculation appears to include those who resigned or retired during the period July 1, 1988 to June 30, 1989. That, is the projection does not purport to estimate the turnover savings for the fiscal year. Fourth, the Faculty Association projection includes "tenure denials". It would be inappropriate for the University to expect turnover savings from tenure denials as this would discourage faculties from making difficult academic judgments.

The Faculty Association's position in this respect, by its own admission, involves "a fair amount of hypothesizing with which one might feel uncomfortable". We agree with the Faculty Association's premise, and we share the discomfort. In our view, the Faculty Association has produced no persuasive evidence or argument to shake Mr. Cosh's conclusions on this issue, and in the circumstances we have no basis for rejecting them. Our conclusion, therefore, is that the addition of $330,000 in respect of turnover savings reflects a proper adjustment.

The remaining dispute in this connection concerned the appropriate treatment of early termination allowances. These represent amounts paid to faculty members in respect of their agreement to accept early retirement. Mr. Cosh provided for a deduction of $600,000 in respect of such allowances. The Faculty Association says that no deduction should be made.

The Faculty Association's contention in this connection was not the subject of any great elaboration either in its Submission or at the hearing. It was based upon the assertion that early termination payments do not form "a legitimate part of the numerator of the ratio of salaries to total expenditures: they are not made to members of the bargaining unit and they are under arrangements which the administration has declined to negotiate with the Faculty Association."

We express no view about the latter point. As to the former, our view is that, properly understood, the word "salary" in Section 12.02 (f) of the Framework Agreement has a broader meaning than "salary" in a technical legal sense. We derive support for this view from a consideration of the definition of the word "salaries" in Section 1.01, which is an inclusive definition; and from a consideration of the structure of the Agreement as a whole. In our view, therefore, early termination allowances are properly to be regarded as "salary" within the meaning of the Agreement, and they are properly an item to be deducted from the total funds available in respect of salary increases for 1989-90. No question was raised as to the amount of the allowance in this respect, and we accordingly conclude that Mr. Cosh's figure of $600,000 should be deducted.

On this basis, we have concluded that Mr. Cosh's conclusion, as revised during the course of the hearing, that the total amount available for faculty salary increases in the 1989-90 fiscal year is $6,569,000, is correct.

(d) The Salary Award for 1989-90

There is one aspect of the University's position that requires further attention. It will be recalled that Mr. Cosh's forecast difference between academic salaries in 1988-89 academic salaries and in 1989-90 is $12,859,000. A significant deduction from that figure was an agreed amount of $3,250,000, representing the proportion of the cost of the 1989 Award which was payable in 1989-90. This reflects the fact that the general increase in 1988-89 was applied in three stages: 3.4% on July 1, 1988; 0.5% on January 1, 1989, and 1.0% on April 1, 1989. Since the fiscal year runs from April 1 to March 31, the full impact of the various stages was not felt in the 1988-89 fiscal year. In fact, the April 1, 1989 increase had no impact at all in that fiscal year.

The full impact of the 1988-89 increase, then, will be felt in the 1989-90 fiscal year, and the analysis done by Mr. Cosh accurately reflects this. It is not disputed that the relevant figure is $3,250,000.

The University's proposal for the 1989-90 general increase is 4.5%, effective July 1, 1989. It makes no proposal for increases at later stages of the academic year. Is this justified?

At one extreme, we could, we suppose, award a substantial increase effective April 1, 1990. Because that falls outside the fiscal year (but not the contract year) with which we are concerned, such an award would have no impact on ability to pay, or upon the reasonable ratio for that fiscal year. But in our view it would be an entirely inappropriate award, for it would have its major impact not in the 1989-90 fiscal year, in respect of which we do have evidence concerning the University's ability to pay, but in the 1990-91 fiscal year, as to which we have no evidence on that subject.

On the other hand, no reason has been given to us, nor can we find any, for not providing for increases staged throughout the academic year, that are of roughly the same magnitude as those we awarded last year. We have come to the conclusion that the general increase should be phased over the fiscal year, in the same manner as we provided for in the 1989 Award, as follows:

July 1, 1989	4.33%
January 1, 1990	0.50%
April 1, 1990	1.00%

The cost of this Award in the 1989-90 fiscal year is virtually the same as that of the proposal made by the University. It will, of course, have implications for the next fiscal period, but its effect will be similar to that of the 1989 Award in the 1989-90 fiscal year.

4. OTHER MATTERS

There are several other proposals that have been made by the Faculty Association which remain to be addressed.

(a) Career Advancement Plan

The parties seem to be in agreement that additional Career Progress Increments resulting from promotions will continue to be a charge against the Inequity and Anomaly Fund. We made an award to this effect in the 1989 Award, and make the same award here.

The Faculty Association has also sought an amendment to the Career Advancement Plan for programme directors, so that it would follow the same plan as for the general librarians. This is a repetition of a proposal made by the Faculty Association last year, which we rejected on the basis that the criteria set out in Article 12.02 (f) of the

Framework Agreement did not permit this. We remain of that view, and accordingly decline to award this proposal.

This year, as last, the Faculty Association proposed that sessional lecturers appointed in the previous year should receive Career Progress Increments, Merit, and Inequity and Anomaly payments in addition to their minimum salaries. We are not persuaded by the case made by the Faculty Association in this connection, and accordingly decline to award this proposal.

(b) Minimum Salary

The Faculty Association proposed certain differential adjustments in the minimum annual salaries for faculty members with Ph.D. degrees, and those without. In our view, the increase offered by the University is in all the circumstances adequate. In the 1989 Award we rejected the proposal for a salary differential for sessional lecturers holding a doctorate. Nothing was said to us in these proceedings that would warrant a change in our view. Similarly, we are not persuaded that it is necessary to provide for minimum annual salaries for other faculty members.

(c) Librarians

Under the University's proposal, as set out in Part 2 of this Award, the salary scale for general librarians would be increased, so that the minimum salary paid to a starting librarian would be $30,194, and they would, in addition, receive the greater of the general increase proposed by the

University, and the amount needed to increase salaries to the appropriate point on the scale. The Faculty Association, on the other hand, seeks an increase in the minimum salary for librarians to $30,600, with the schedule of experience related increases being based on the Career Advancement Plan for librarians. In addition, the Faculty Association seeks an award for each librarian of 11.31% of library salaries, less the cost of its proposal for experience-related increases.

In the 1989 Award we said that it was our view that a good case had been made out with respect to starting salaries for professional librarians, and added that if it were not for limitations upon the University's ability to pay, we would have awarded "a substantial increase in this area." The Faculty Association has similarly made out a good case in these proceedings with respect to librarian starting salaries, and our view of the need has not changed. Indeed, we do not understand the University to challenge our characterization.

The University has made two alternative proposals to address the situation. Under the first, a salary scale would be substituted for the existing arrangement consisting of a scale of minimum salaries together with career increments. That scale would result in an increase of some 3% for librarians, in addition to the general increase awarded to other members of the bargaining unit. The Faculty

Association does not agree with this proposed change in structure.

The University's alternative proposal is to continue with the existing structure, but to increase the minima.

We are not persuaded that the problem is structural. Rather, it is our view that the salaries of general librarians are simply too low. We have reached the conclusion, accordingly, that the existing scale should be maintained, but that there should be an increase for general librarians of 4.33% across the board, as we have awarded for all members of the bargaining unit, effective July 1, 1989. In addition, there should be a further 3% increase for general librarians effective July 1, 1989. This award has an effective cost to the University that is the same as the proposal that it has made. The general librarians will also, of course, have the benefit of the general increase of .5% on January 1, 1990, and of 1% on April 1, 1990.

We would go further, however, and award an additional 10 per cent increase to the existing minima for general librarians, effective April 1, 1990. This will have no effect on the University's ability to pay in the current fiscal year, though it will have some effect in the next fiscal year. We do not think that that effect is significant, however, and it will in any event have to be factored in to any salary arrangements made for the next academic year.

(d) Special Equity Adjustments

We have set out above the various proposals of the parties with respect to special equity adjustments, and it is accordingly unnecessary to repeat them at length here. Those addressed to the position of librarians have already been dealt with. The following items remain to be addressed:

(i) Gender Equity Payments

The Faculty Association asks us to award an amount of $245,000 to be applied to the elimination of what it called "systematic gender-based salary differentials". It says that it calculated that as a result of an agreement in 1987-88 to apply $120,000 to this, the Faculty Association had concluded that "$375,000 was still needed." In the 1989 Award, we awarded $125,000 for this purpose and so, claimed the Faculty Association, "this leaves $250,000 to be awarded".

The Faculty Association's arithmetic is impeccable, though we are puzzled as to why, if $250,000 remains to be awarded, only $245,000 is requested. Be that as it may, however, the University took the position that the most recent regression analysis undertaken by it showed that "there are no gender based salary differentials." The Faculty Association complained that the data underlying the regression analysis had not been made available to it, although this did not preclude a challenge to the validity of the statistical methods employed. The Association did not, however, initially offer any analysis of its own.

In view of this, we decided that the University should make its data available to the Faculty Association, and that the Association should have the opportunity, having seen the data, to make further submissions on the point. This was accordingly done. We received from the Faculty Association a brief and scholarly submission. Though we are uninstructed in the arcane mysteries of statistical method, the conclusion is clear enough. It is that the University's analysis is based upon "an inappropriate specification of the regression" and that "a more appropriate specification yields a statistically significant differential . . . estimated at $837 per female faculty member". This, it turns out, is a minimum estimate only, but the Faculty Association is apparently prepared to live with that minimum - or so we infer.

The University was given an opportunity, in turn, to respond to the Association's submission on this issue. The nub of that response was that the dispute between the parties "is not over objective, but rather over the appropriate method for determining whether any systemic gender based inequity exists". The University's reply continues:

> The University understands from the Faculty Associations's submission that the Association was able to replicate and confirm the results which had been reported by the University to the

> Arbitration Board based on the University's model for performing this analysis. The Faculty Association argues, however, that there are other models for analysis which are preferable to the ones used by the University.

The University continues with an exposition of why, in its view, the assumptions made in the Faculty Association submission may not involve the "more appropriate specification" that is claimed.

Reluctant though we are to intrude upon the private world of statisticians, it seems to us that we have little alternative, notwithstanding the risk of being, or at any rate being thought to be, fools, but to come to a conclusion as to which of the two approaches involves the more appropriate specifications. Having made our best effort at trying to understand the issues, though without any conviction that we have succeeded, our conclusion is that the Faculty Association, on whom the onus rests, has not demonstrated the inappropriateness of the University's specifications. Accordingly, in our view, no case has been made out for an award of any amount in respect of gender inequity.

(ii) Additional Payments

The Faculty Association has asked for payments "not to exceed 20% of the fund" to realize a certain "target minimum schedule", and for a distribution of "remaining monies" among professors and associate professors" so as to produce a certain proportionate relationship among their respective salaries.

Since the premise of these proposals, namely the existence of a "fund" and of "remaining monies" is, for reasons we have given, unsound, no award is made in respect of these matters.

(e) Research Allowance

In our view, the Faculty Association's proposal for research allowances has substantial cost implications, at least in future years. It was for that reason that in the 1989 Award we rejected a similar proposal by the Association. Our opinion continues to be that salary increases are preferable to the establishment of an allowance of this kind.

(f) Study and Professional Improvement Leaves

In our view, the Faculty Association's proposal is unacceptable. Until Faculty salaries are at an acceptable level, we consider it inappropriate to award proposals of this kind.

5. SUMMARY

The following is a summary of our Award:

1. **General increase**

July 1, 1989	4.33%
January 1, 1990	0.50%
April 1, 1990	1.00%

2. **Career Advancement Plan**

(a) Additional Career Progress Increments resulting from promotions will continue to be a charge against the Inequity and Anomaly Fund.

(b) We decline to extend the Career Advancement Plan to Programme Directors.

(c) We decline to award that Sessional Lecturers receive Career Progress Increments, Merit and Inequity and Anomaly payments in addition to their minimum salaries.

3. **Minimum Salary**

We decline to make an award in respect of minimum salaries.

4. **General librarians**

The increase for General Librarians is:

July 1, 1989	7.33%
January 1, 1990	0.50%
April 1, 1990	11.00%

5. **Special Equity Adjustments**

We decline to award any such adjustments.

6. **Research Allowance**

We decline to award this proposal.

7. **Study and Professional Improvement Leaves.**

We decline to award this proposal.

DATED at Vancouver, British Columbia, this 26th day of September, 1989.

LEON GETZ

STEPHEN KELLEHER

HUGH G. LADNER, Q.C.