

July 2007

ALRA *Advisor*



Photo—Tourism Toronto

ALRA's 56th Convention
Toronto, Canada — July 28—August 1, 2007

ALRA *Advisor*



ALRA Advisor is published for members of the Association of Labor Relations Agencies (ALRA) and their staff.

In this issue...

From the President	3
FMCS at 60 Years.....	4
Federal Canada	8
Neutrality Project Update.....	9
Federal United States	10
In & Around the States	12
In & Around the Provinces	13
Personalities	14
Candid Camera.....	14
Investigative Reports	15
Goodbye	15
Appointments.....	16
Awards.....	17
From the Bookshelf.....	17
Nominations.....	18
ALRA Executive Board	19
2008 Conference — Vermont	20



Ontario Place—Photo Tourism Toronto



The Bluffs—Photo Tourism Toronto



Casa Loma—Tourism Toronto photo

www.alra.org.com

The ALRA Advisor is published bi-annually (December and July). On occasion, special issues are produced on an ad hoc basis.

DEADLINES: *December Issue:* October 1st — *July Issue:* May 1st
 ARTICLES: Submit material as e-mail attachments (in MS Word, WordPerfect or MS Publisher format)
 PHOTOS: Submit digital files (jpeg, bmp, tiff) at 300 dpi. Please do not embed/insert photos in text document.
 EDITING: All articles are subject to editing for length and clarity.
 SEND: Forward all material to the Editor: jim.breckenridge@ontario.ca.



From the President..

Welcome to Toronto! Such a marvelous location for our 2007 ALRA Conference. We owe a hearty thank you to Reg Pearson and his talented staff from our host agency, the Ontario Ministry of Labour, for all their work on this conference. I'm sure you also will find that the work done by the Program, Professional Development and Neutrality Committees has paid off as well, resulting in an outstanding conference program from which you can't help but draw a wealth of information.

Thanks to *Reg Pearson* and *Sue Bauman* for co-chairing the Program Committee and putting together a meaningful program; to *Les Heltzer* and *Liz MacPherson* for leading the PD Committee and responding to ALRA member requests for training sessions; to *John Higgins* and *Marty Malin* for heading up the work on the Neutrality Project; to *Jackie Zimmerman* for continuing as the ALRAcademy guru; and to *John Mather*, Chair of the Arrangements Committee, for making it possible for us to all gather here in such a wonderful venue.

As every past ALRA President has said, the year one serves as ALRA President passes very quickly—for the incumbent at least! I agree with them as it feels to me as though we were in Baltimore just a couple of months ago. But then I look back at all that has happened during my term and wish to share with you a few thoughts about this past year.

I first want to acknowledge a number of long-time active ALRA members who left to pursue other endeavors. I know there have been others, but those who come to mind for me are those I worked

closely with during the past few years: New York/New Jersey Port Authority's *Joel Weisblatt*, Ohio's *Tom Worley*, New York's *Michael Cuevas* and Pennsylvania's *Jim Crawford*. I have missed the many contributions each so willingly made to help make ALRA the organization it is today and take this opportunity to thank them and wish them the very best in life.

Speaking of "long timers", I can't image what we would have done without the due diligence and subtle nagging of *Jim Breckenridge* who for years has tackled the task of gathering and organizing articles for the ALRA Advisor. What a guy you are, Jim! And, then there's the ever omnipotent *Dan Nielsen* who has an answer for every question I've been able to raise – I'm not quite sure what that says about either one of us! But, thanks, Dan, you continue to be a valuable resource to all. To *Jaye Bailey* who has been a trusted friend and invaluable mentor to me this past year – gracias! And finally, thanks to *Majel Boudia*, our Executive Assistant at my agency, for remaining calm throughout this year and for providing such great administrative support to me. All you ALRA folks should be so lucky!

And there's more! I praise the Executive Board members for their hard work and support during my term as President. We tackled some difficult issues which we believe needed to be addressed to ensure the continued viability of the ALRA organization. You can be sure that it was no easy task to deal with the long-needed adjustments in our membership dues and our conference fees, but the Board members took the action deemed necessary to keep ALRA solvent. One couldn't have asked for a



Marilyn Glenn Sayan

better Executive Board and I'm proud to have served this past year with *Jaye Bailey*, *Liz MacPherson*, *Les Heltzer*, *Scot Beckenbaugh*, *Bob Hackel*, *Pierre Hamel*, *Phil Hanley*, *Mary Johnson*, *Sue Bauman* and *Akivah Starkman*. And, I must add that we were pleased with the recent addition of *Josée Dubois* of the Canada Public Service Staffing Tribunal who joined the Board to fill Michael Cuevas' unexpired term. What a group and what a pleasure it has been to work with them!

Finally, I wish to express my genuine thanks to each of you for giving me the privilege of serving as your ALRA President this past year. While it's been trying at times, it's always fun to be involved with such a brilliant group of people. All this has just reinforced my belief that ALRA's most wondrous asset is providing an avenue through which fellow labor relations practitioners can network and share the wealth of expertise that exists in our member agencies. For me this has resulted in some true friendships which will meet the test of time -- and you should know that I plan to be around for a few more years to test that theory!

Thanks for the great ride!

— Marilyn



TorontoWire.com photo





Jerome T. Barrett

FMCS at 60 Years

— Jerome T. Barrett, Founder, Friends of FMCS History Foundation

Sixty years ago, in the immediate post war period, several important industrial relations organizations were born. The year 1947 witnessed the creation of the Industrial Relations Research Association (now LERA), the Industrial and Labor Relations School at Cornell University and University of California at Berkley, the National Academy of Arbitrators, and the Federal Mediation and Conciliation Service, to replace its predecessor, the United States Conciliation Service.

This paper describes the FMCS history based on an archive containing papers, memorabilia, records, books, reports, photos, equipment, film and tape recordings, and over 175 taped interviews of mediators from both FMCS and USCS.

60 Years Ago

The historic context offered perfect timing for reforming labor law at the time FMCS was created. The extensive wartime controls on collective bargaining had just ended. Practitioners who had begun bargaining during the late 1930s had forgotten how to bargain during the environment created by wartime controls, no-strike pledges by unions and the extensive use of arbitration for grievances.

The largest number of strikes in U.S. history occurred during Winter and Spring of 1946. There were industry-wide strikes in coal, steel, auto, meatpacking, and electrical manufacturing during that period as wage and price controls ended. No substitute suppliers were available, since no other country had the industrial capacity to replace those five major industries.

Giants like John L. Lewis cast their shadow across the labor scene, engendering both admiration and fear. Editorial writers and cartoonist had a field day taking shots at labor bosses and foreign ideologies. No labor leader today can match the attention John L. could command.

In anticipation of the pent-up demands as the economy shifted from war to peace, President Truman appointed at National Labor-Management Conference, a tripartite commission composed of major labor, management and government players. Following lengthy meetings, the Commission's 1945 report showed no agreement on what to do about labor and management problems. The only exception was that both labor and management wanted the government's mediation function strengthened.

In January 1947, a newly elected Republican Congress came to town with labor reform in mind. Two new congressmen, a Democrat and a Republican (both veterans of the recently ended WWII), were assigned seats on the committee that considered the legislation that became Taft-Hartley. Like other members, these two congressmen debated on opposite sides of Taft-Hartley, before moving on to larger issues. They were John Kennedy and Richard Nixon.

In June, Congress passed the *Taft-Hartley Act* creating FMCS, among a number of other things. The chief features of Taft-Hartley impacting mediation and the new FMCS were: a) 30-day notice to FMCS before termination of an existing collective agreement; b) voluntary mediation; and, c) good faith bargaining required of both labor and management.

President Truman vetoed Taft-Hartley. Congress easily over-rode his veto and, on Friday, August 22, 1947, FMCS was born. The staff, records, equipment and office space of USCS shifted to FMCS control. It is interesting to note that the mediation function remained headquartered in the Department of Labor building, with the

FMCS director's office next to the Labor Secretary, until the 1970s.

Cyrus Ching, the first Director of FMCS, in recalling the shift from USCS to FMCS, said: "We just changed the name on the door and the stationery." Later, he made more substantive changes.

United States Conciliation Service (USCS)

To understand FMCS, it is important to have a sense of USCS in the Department of Labor and the evolution of the federal government's mediation function. The mediation function started shortly after the Department's creation in 1913. The Act creating the Department authorized the Secretary to mediate disputes and to appoint commissioners of conciliation. The word 'Commissioners' in the Act is the reason FMCS mediators even today are called Commissioners.

Initially, the Secretary assigned staff from other functions within the Department as ad hoc conciliators to handle specific disputes. As more disputes occurred during WWI, the USCS was created as a Division within the Department. In 1917, Congress approved a budget for the USCS.

From a modest beginning in 1913-14, with only 33 cases conciliated, the number increased to 1,217 by 1918 and to 1,789 by 1919. Following the War, during the 1920s, conciliated cases decreased, never exceeding 560 per year during that decade. The volume of cases increased in the '30s with the passage of legislation encouraging collective bargaining. All bargaining had previously been completely voluntary, except for parties covered by the *Rail Road Labor Act* (RRLA). In 1939, conciliators handled 3,541 cases, about 3,000 per year more than during the 1920s.

John Steelman, who became Director in 1937, said the primary job of his mediators in the 1930s was teaching negotiators how to negotiate, coaching them on how the process worked, assisting with proposal drafting,

(Continued on page 5)



FMCS at 60 Years

(Continued from page 4)

discussing strategies, and writing contract language.

While most of the staff mediated, some USCS staff worked as grievance arbitrators. Many grievances were also mediated by USCS, since the USCS considered both contract negotiations and grievances as labor disputes. A few USCS staff worked as technical experts providing the parties with objective time and motion studies, as well as job evaluation studies.

During WWII, conciliation cases increased tremendously: 6,500 in 1942, 14,000 in 1943, over 20,000 in both 1944 and 1945. The USCS can be viewed as the grandparent of mediation, since it institutionalized mediation in this country with a permanent staff functioning under policies and developing and maintaining a body of practice. FMCS has continued this institutional history. In the practice of labor-management arbitration, USCS/FMCS share credit for institution building with the American Arbitration Association, the National War Labor Board, the National Academy of Arbitrators and the U.S. Supreme Court.

Federal Mediation and Conciliation Service

During Congressional debate in Spring 1947, the Senate and the House disagreed on what to call the new agency. The Senate favored mediation, while the House favored conciliation. Since neither chamber was willing to defer to the other, FMCS was given both names.

Director Ching made several early changes from the USCS practice that amounted to privatization. He replaced staff arbitration with a panel of qualified private arbitrators from which the parties could choose. He also abandoned the practice of allowing mediators to provide time and motion studies, and job evaluations. Ching believed that such work was more appropriate for private sector consultants.

It is important to understand that mediation is a companion to collective bargaining. Without labor-management negotiations (collective bargaining) there would be nothing to mediate. The volume of collective bargaining determines the

volume of mediation. The history and fortunes of FMCS are tied to the extent and robustness of collective bargaining. During its 60-year history, trade union membership, collective bargaining and FMCS grew and declined together.

The '50s through the '70s

In contrast with today, the '50s through the '70s were the hey-day of collective bargaining and, thus, the hey-day for mediation. The economy was expanding, wages, benefits and working conditions were all being improved during each negotiation. Here are some features of that robust era for collective bargaining and mediation:

All large newspapers had a labor reporter who knew that subject, wrote about current negotiations, and called the mediators to find out what was happening. FMCS field offices heard from local reporters regularly. The *New York Times*, the *LA Times* and the *Wall Street Journal* each had nationally-known labor reporters. In that era, any newspaper article that included the word 'mediation' would be a story about labor-management mediation, since this was long before today's other conflicts using mediators.

Taft-Hartley National Emergency Boards were used on major disputes with

nationally-known third parties and major news coverage—29 times in the first 20 years of Taft-Hartley. Some major disputes received Presidential or at least White House attention. Both President Johnson and President Nixon were reported to have been involved personally in major disputes.

The '50s through the '70s was an era of coordinated and corporate-wide bargaining in industries such as oil, steel, aluminum, meat packing, coal, copper, auto, aerospace, electrical manufacturing and telephone. Such negotiations commanded news coverage featuring intriguing strategies and other complexities. For FMCS, co-ordination among the mediators assigned to these industries or corporations was demanding. An example of that co-ordination would be a mediator in Houston calling a mediator in Washington D.C. to report that Shell Oil was about to put a 'final' wage offer on the table. The mediator would ask what was happening at the other oil negotiations, since the union would refuse to meet until they knew what was happening elsewhere.

During this era, the FMCS National Office created the office of mediation and the practice of intervening in disputes being handled by a local FMCS mediator. This was not popular with local mediators, who preferred to handle their cases alone. The national office mediators, jokingly referred to as paratroopers, were accused of using tactics which placed a premium on settlement over relationships—leaving the local mediator to fix the relationship after the paratrooper moved on. During the '60s, there were six to eight mediators assigned to the national office to act as paratroopers.

This era presented new issues to collective bargaining and mediation: new fringe benefits, new pay schemes, new forms of union security, and strange new issues like juniority (the opposite of seniority).

Beyond the challenge of new issues for the mediators, there was a vexing, new problem with mediated agreements being rejected by a membership vote.

(Continued on page 6)



John R. Steelman was appointed USCS Director in 1937 by Labor Secretary Perkins after serving as a mediator for one year, and as the Secretary's special assistant for a year. Prior to his government service, he had been a college professor in Alabama. After leaving USCS in 1944, Steelman was a special assistant to President Truman where he continued mediating major disputes.



FMCS at 60 Years

(Continued from page 5)

These contract rejections, which previously had been very rare, occurred increasingly during that period. FMCS responded by establishing a policy covering the circumstances under which a mediator could attend a union membership meeting when a new contract was being voted. It also provided guidance on what the mediator might do or say at such a meeting.

FMCS responded to evolving new circumstance during this era on a number of different fronts with new programs and practices. By the mid 1970s, the mediation staff had expanded to its largest level, and included more women and minorities. Greater emphasis was placed on training new mediators and updating senior mediators on emerging issues and new sectors, such as public employee collective bargaining. The preventive mediation program, in which mediators assist labor and management in improving their working relationship, was promoted and expanded with new audio visual aids and new processes including Relationship by Objectives. More collective bargaining background information was provided to staff for their mediation work. A 1974 amendment to the *Taft-Hartley Act* expanded coverage to non-profit hospitals and health-care facilities, increasing mediation work and adding a new board of inquiry procedure for that industry.

Throughout its history, FMCS has had to deal with statutes and other forms of regulation that impacted collective bargaining and mediation. During the 1950s through the 1970s, FMCS accommodated the following statutes and regulations: National Emergency Boards under Taft-Hartley; Atomic Energy Labor-Management Panel; Missile Site Labor Commission; Energy Crisis Czar; Economic Controls on wages and benefit costs (guidelines); *Post Office Reorganization Act* of 1970; Health Care Amendment to Taft-Hartley in 1974; *Labor Management Cooperation Act* of 1978; Federal sector employees collective bargaining under Kennedy and Nixon Executive Orders and Civil Service Reform Act of 1978, and various state laws allowing collective bargaining for state and local public employees.

With each of these developments, FMCS worked to support free collective bargaining, assure non-compulsory mediation, and safeguard the independence and neutrality of their mediator. In all of this, FMCS sought to work in the public interest while providing competent mediation services.

The success of collective bargaining and mediation during the 1950s through the 1970s cannot be seen as an effortless time for mediators. Most mediators would characterize their work as challenging and satisfying. Reaching an agreement between a powerful and well represented union and a worthy management often was just that—challenging and satisfying. In addition, the period confronted mediators with the impact of regulations and statutes referred to above, as well as both good economic times and economic slow-downs.

The '80s and '90s

In contrast with the '60s and '70s, the '80s and '90s were not kind to collective bargaining or FMCS. It is difficult to imagine how collective bargaining could prosper when one of President Reagan's early actions was the highly public firing of thousands of striking Air Traffic Controllers. This presidential action emboldened employers to take-on the unions, to depict them as the problem and not part of the solution in dealing with competition and the global economy. Thus began a series of management and governmental initiatives to diminish collective bargaining and union influence. The result was a major paradigm shift in employment relations in which management gained the dominant position.

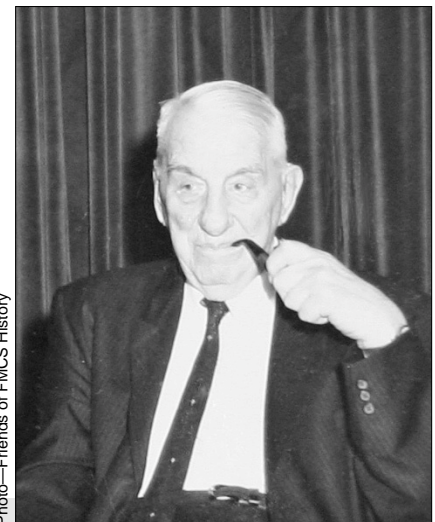
Those initiatives included: two-tier wage settlements and give-back bargaining; double-breasted building contractors; more part-timers and contract workers; growth and success of

union-free consultants, and union decertification; down-sizing and reinventing; foreign competition and off-shore operations; a decidedly pro-employer National Labor Relations Board; tight government budgets and efforts to privatize; and the shift in public opinion against unions.

It is not an exaggeration to say that during the '80s many union negotiators would have gladly extended their labor agreement without reopening it just to maintain what they previously had in their labor agreement. Not a happy time for collective bargaining.

During the 1980s, union membership declined from 20.1 million (23% of the workforce) to 16.7 million (16% of the workforce). To deal with the accompanying decline in income, 42 national union mergers occurred, along with significant staff reductions and member services curtailment.

With the decline in collective bargaining, FMCS mediation cases declined as well. That resulted in major cuts in FMCS budget and staffing during the 1980s. During an 18-month period, the budget was cut from \$26.7 million to \$22 million eliminating 75 employees from a staff of less than 500. Mediators who had never mediated reductions in pay, benefits or working conditions



Photo—Friends of FMCS History

Cyrus Ching, FMCS Director 1947-1952

Appointed by President Truman, Cy Ching was sworn in as the first FMCS Director on September 5, 1947, just two weeks after FMCS's official birthday. John Steelman persuaded him to take the job based on Ching's work with the War Labor Board as the Head of Labor Relations for U.S. Rubber. Born in Canada, Ching came to the U.S. and worked for the Boston Transit while earning a degree in a night law school. He wrote: *Review and Reflections: A Half Century of Labor Relations*, after five years as director. He died at the age of 90.

(Continued on page 7)

FMCS at 60 Years

(Continued from page 6)

struggled to deal with this new collective bargaining reality.

The budget and staff cuts forced FMCS to identify new ways of fulfilling its mission. The assignment of cases to mediators was moved from regional offices to the national office. With the firing of all field clerical staff, primitive recording machines were provided to handle mediator phone calls from labor and management. Travel, training and office expenses were significantly reduced. Offices were closed or merged and conference room spaces were given-up. Hiring and promotions were frozen. Preventive mediation and other non-dispute mediation activities were curtailed.

As union membership continued to decline in the 1990s, FMCS continued to struggle to find its role. Two new federal statutes offered an opening for FMCS in Alternative Dispute Resolution (ADR). While FMCS had done some work beyond labor management relations, its specific statutory role was limited. In the 1970s, FMCS had been directed by statute to assist in a hundred-year-old land dispute between the Hopi and Navaho Nations in Arizona. On occasion, federal agencies had asked for FMCS help beyond its legislative mandate. For the Department of Interior, FMCS conducted elections for the Sioux Nation in South Dakota, and the Health and Human Services Department arranged for FMCS to mediate their discrimination cases arising under grant programs.

One new statute in the 1990s urged Federal Agencies to use ADR in administrative matters, and another statute required regulatory agencies to use ADR in their rule making processes. Given this new ADR work via statute, FMCS was encouraged to seek other opportunities for its mediators in the expanding ADR field.

Also in the 1990s, an Executive Order by President Clinton opened another opportunity for new work by directing federal agencies to use partnership arrangements and interest-based negotiation (IBN) in dealing with their employee unions. While FMCS had only begun to use and promote IBN, the Clinton Order served as a significant milestone in the FMCS adoption of IBN,

which has now become a major program in FMCS. IBN has offered FMCS a more enlightened negotiating and problem solving process that filled a need in post-1980 labor-management relations.

FMCS began to charge for services previously provided free: overseas training and consulting, preventive mediation to Federal agencies and their unions, fees charged to parties seeking arbitrators from the FMCS roster, and fees from arbitrators listed on the FMCS roster. FMCS created an institute through which it offers multiple-day courses on mediation, negotiation, and problem-solving. Unlike previous training offered to labor and management without cost, Institute courses are open to the public at market rate tuition fees.

Recent Years

FMCS has taken full advantage of the Information Technology (IT) age. Every mediator has a laptop and cell phone as a constant companion, to keep in continuous touch while traveling and at home. This has made office space much less important. Their Blackberry-equipped boss, the National Office, and what they now call their 'customers' are just a text message, voice message, e-mail or a live voice away. Technology has transformed FMCS as it has workplaces everywhere. From home or hotel room, the mediator can, electronically, check voice, text and e-mail messages; modify their agenda; file a travel reimbursement claim or case report; receive new case assignments and close old assignments; schedule or cancel a meeting; check a data base on industry trends for tomorrow's mediation session; download a power point file for a luncheon presentation; read FMCS news releases, policies, and ethical guidance; draft a new power point or training lesson plan; and check the FMCS website or Wikipedia.

IT has allowed FMCS to move some national office functions to field locations where rent is lower. The FMCS Institute for Conflict Management is now headquartered in Seattle and the Labor-Management Grant program is located in New Jersey. Also, cost savings were realized by eliminating small field offices

and allowing mediators to work from home.

It has also allowed FMCS to institute a program called Technology Assisted Group Solutions (TAGS), which utilizes computers to help parties reach consensus either on the internet or in face-to-face meetings. This process has even been used to conduct a long standing program called Relationship by Objectives.

When Congress urged FMCS to share its conflict resolution expertise to help reduce youth violence, another innovative program resulted. FMCS has partnered with communities and other organizations nationwide to teach children and young adults the skills needed to manage conflicts in their lives. In support of this effort, FMCS produced a publication called: "*Creating Harmony in the Classroom.*"

To help focus its role in the post-Reagan era, FMCS has engaged professional help to survey its customer-base and gain data on how well FMCS is performing and what other assistance is needed. FMCS contracted with the Employment Policy Foundation to develop a model to determine the cost of work stoppages. By using that model on strikes during the past two years, FMCS learned how significant strikes impact the economy: \$950 million in lost wages, \$263 million in company lost profits, and \$1.7 billion impact on ancillary business. Using the model, FMCS demonstrated to Congress that a savings of \$1.7 billion in lost wages and company profits was achieved when FMCS mediators reduced strike duration in 196 cases and prevented 251 strikes.

Much has changed over the 60 years since the creation of FMCS as the successor to USCS in 1947. The most dramatic is the decline of the labor movement and collective bargaining since the 1980s. The response by FMCS to its new environment is remarkable, given FMCS's initial mandate. The large increase in grievance mediation stands in stark contrast with strict restrictions FMCS formerly placed on using resources on grievances. Only a strike threat would have allowed grievance mediation in the early days. The amount of overseas work was very limited before

(Continued on page 17)



Supreme Court of Canada grants constitutional protection to collective bargaining

— *Lang Michener, LLP and FMCS*

In a landmark decision issued on Friday, June 8, 2007, the Supreme Court of Canada granted constitutional protection to collective bargaining, thereby overruling its own jurisprudence on the interpretation to be given to the Charter of Rights guarantee of freedom of association. The Supreme Court decision was rendered in an appeal from a decision of the British Columbia Court of Appeal in the case of “Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia” (2007 SCC 27; docket 30554).

Several unions representing health care workers in British Columbia had challenged provisions of the “*Health and Social Services Delivery Improvement Act*”, which was adopted by the provincial government in 2002 in response to challenges facing British Columbia's health care system. The Act was quickly passed and there was no meaningful consultation with unions before it became law.

It gave health care employers greater flexibility to organize their relations with their employees as they saw fit, and in some cases, to do so in ways that would not have been permissible under existing collective agreements, and without adhering to requirements of consultation and notice that would otherwise apply. It invalidated important provisions of collective agreements then in force, and effectively precluded meaningful collective bargaining on a number of specific issues. It also voided any part of a collective agreement, past or future, which was inconsistent with the Act, and any collective agreement purporting to modify these restrictions. Unions and members of the unions representing the nurses, facilities, and community subsectors, challenged the constitutional validity of the Act as violative of the guarantees of freedom of association

(ss.2(d)) and equality (s.15) protected by the Canadian Charter of Rights and Freedoms. Both the trial judge and the Court of Appeal found that the Act did not violate ss. 2(d) or 15 of the Charter.

In a 6:1 decision, the judges of the Supreme Court of Canada allowed the appeal in part, holding that certain portions of the Act are unconstitutional. This declaration is suspended for a period of 12 months.

In its reasons for decision, the Court said:

“At the time the Charter was enacted in 1982, collective bargaining had a long tradition in Canada and was recognized as part of freedom of association in the labour context.(...)”

The protection enshrined in s. 2(d) of the Charter may properly be seen as the culmination of a historical movement towards the recognition of a procedural right to collective bargaining.

...Section 2(d) of the Charter does not protect all aspects of the associational activity of collective bargaining. It protects only against ‘substantial interference’ with associational activity, in accordance with a test crafted in *Dunmore* by Bastarache J., which asked whether ‘excluding agricultural workers from a statutory labour relations regime, without expressly or intentionally prohibiting association, [can] constitute a substantial interference with freedom of association’ ... Nevertheless, intent to interfere with the associational right of collective bargaining is not essential to establish breach of s. 2(d) of the Charter. It is enough if the effect of the state law or action is to substantially interfere with the activity of collective bargaining, thereby discouraging the collective pursuit of common goals. It follows that the state must not substantially interfere with the ability of a union to exert meaningful influence over working conditions through a process of collective bargaining conducted in accordance with the duty to bargain in good faith. Thus the employees’ right to collective

bargaining imposes corresponding duties on the employer. It requires both employer and employees to meet and to bargain in good faith, in the pursuit of a common goal of peaceful and productive accommodation.

The right to collective bargaining thus conceived is a limited right. First, as the right is to a process, it does not guarantee a certain substantive or economic outcome.” ❧

FMCS Industrial Relations Internship Program

In October 2006, the Canadian Federal Mediation and Conciliation Service launched an innovative internship program to help develop the next generation of industrial relations leaders.

The Industrial Relations Internship Program provides qualified university graduates with a two-year term position, during which they assist negotiators and mediators involved in dispute resolution and dispute prevention activities. In addition to a stint with FMCS, each intern will spend time working for an employer, a union and the Canada Industrial Relations Board. The employer and union community have greeted the internship program with enthusiasm and a number of FMCS’s clients have expressed an interest in playing host to an intern.

The first nine interns began work in late May/early June 2007; 8 are in the five FMCS regional offices and 1 is at headquarters.

Air Canada cabin crew win hikes in base pay

—*Toronto Star*

A labour arbitrator has awarded 6,000 flight attendants wage increases of 5 per cent over three years, ending a series of arbitration awards linked to the Montreal airline's emergence from bankruptcy court protection a few years ago.

Arbitrator Tom Jolliffe gave the CUPE-represented flight attendants a 2

(Continued on page 9)

(Continued from page 8)

per cent increase effective July 2006, another 1.75 per cent effective July 2007 and 1.75 per cent in July 2008.

The arbitration was part of a provision in the contracts reached between the company and its unions in 2003 that were required for Air Canada to cut costs and recover from bankruptcy protection under the federal *Companies' Creditors Arrangement Act*.

Other arbitrators had already awarded similar wage increases to other Air Canada employees, including 10,800 technical, maintenance and operational support workers represented by the International Association of Machinists and Aerospace Workers.

Earlier, about 5,540 Air Canada employees represented by the Canadian Auto Workers union won raises under a separate arbitration award. The airline's 3,100 pilots got 5.5 per cent increases.

The arbitration awards were part of a process under which Air Canada's employees were allowed to recover some

of their wages lost during the restructuring once the airline had returned to profitability.

At the time, the carrier created a holding company, shed debt, trimmed its workforce and streamlined operations as it emerged from court protection. The company is now profitable and has been spinning off parts of its operating subsidiaries to raise money for expansion.

Impact of Immigration on Labour Markets in Canada, Mexico and the United States

According to a recent study, immigration has lowered wages in both Canada and the United States, but the impact on the wages of domestic workers is different in each country. In Canada, where a high proportion of immigrants are skilled, the earnings growth of the most educated has been curtailed relative to the least educated. In the United States a higher proportion of immigrants are less skilled and as a result, the

newcomers have depressed the earnings of low-paid Americans and increased the gap relative to the highest-paid. In Canada, immigration has dampened the trend to higher earnings inequality but in the United States, it has exacerbated it.

LINKS:

A Comparative Analysis of the Labor Market Impact of International Migration: Canada, Mexico, and the United States, by Abdurrahman Aydemir George J. Borjas, National Bureau of Economic Research Working Paper 12327, June 2006, (66 pages, PDF) <http://www.nber.org/papers/w12327>

The Impact of Immigration on Labour Markets in Canada, Mexico and the United States, synopsis of above study from *Update on Family and Labour Studies*, Winter 2007, Statistics Canada, website:

<http://www.statcan.ca/english/freepub/89-001-XIE/2007001/bodytext-en.htm> ☞

Neutrality Project Update...

The long-awaited Neutrality Project is coming to a conclusion under the tender care of Professor Martin Malin (Institute for Law and the Workplace, Chicago-Kent College of Law, Illinois Institute of Technology) and John Higgins (Deputy General Counsel, National Labor Relations Board). Regular attendees of ALRA Conferences will be aware of the significant effort that Professor Malin and a dedicated group of ALRA volunteers have put in to bring this project to fruition.

Chapter 3, "*Conflicts and the Appearance of Conflicts of Interest*" was discussed at the 2006 Baltimore Conference and has been finalized based on comments received at that time. The final Chapter, entitled "*Special Considerations Regarding Mediation*", will be distributed and discussed at the 2007 Conference in Toronto. Once this Chapter has been finalized, the entire document will be printed and distributed to the ALRA membership. ☞



Reg Pearson (Ontario), **Marty Malin** (Chicago-Kent College of Law) and **Arnie Powers** (FMCS-Canada) at one end of a teleconference call to Neutrality Committee members at the March 2007 E-Board meeting.

DEPARTMENT of LABOR

Union Membership in the United States

The Department of Labor's Bureau of Labor Statistics reported in January 2007 that union membership fell again in 2006 to 12 percent of the workforce (employed wage and salary workers) from 12.5 percent the previous year. In absolute terms union membership also fell, by 326,000, to 15.4 million. The decline continued the steady trend observed since at least 1983, when slightly over 20 percent of workers belonged to unions. (Higher percentages, approaching one third of the workforce, have been cited beginning in the 1950s, but the BLS states that comparable data began to be available only in 1983.

Among the highlights of the 2006 data, the percentage of public sector employees in unions was five times that in the private sector, 36.2 percent as compared to 7.4 percent. Employees in local government had the highest rate of union membership, 41.9 percent. Such workers include police and fire services and teachers. The most highly organized private sector industries were transportation and utilities (23.2 percent) and construction (13 percent).

The full report on union membership in the United States is available on the BLS web site, www.bls.gov, press release USDL 07-0113, Jan. 25, 2007.

Union Organizational and Financial Data Online

Individuals interested in obtaining information about the organizational structure of unions, e.g., officers, constitutions and by-laws, or financial reports can obtain it from the Online Public Disclosure Room maintained by the Department of Labor's Office of Labor-Management Standards. The DOL website is www.dol.gov.

Federal Sector Bargaining

A three-judge panel of the US Appeals Court for the District of Columbia has just ruled in favor of proposals by the Department of Defense (DOD) to substantially alter the rules governing union-management relations at

the agency. A lower court had agreed with union contentions that the DOD plan, called the National Security Personnel System, would unfairly limit the collective bargaining rights of workers. A coalition of unions has announced its intention to appeal the panel's decision to the full Circuit court. Among factors complicating this matter is that the appeals court pointed out that the DOD's authority to alter personnel structures expires in 2009, when it appears that regular civil service rules will again apply. Further, there have been moves in Congress to roll back the DOD program as part of its budgetary authorization, drawing a veto threat from the White House.

Legislators have also provoked the threat of a presidential veto over a proposal to grant collective bargaining rights to federal airport screeners, who are part of the Department of Homeland Security. Employees at the Bureau of Customs and Border Protection, also part of DHS, have had collective bargaining rights for years when they were part of separate federal agencies. Their consolidation under the DHS led to a face-off between two competing unions, the American Federation of Government Employees (AFGE) and the National Treasury Employees Union (NTEU), which NTEU won. ❧

FEDERAL MEDIATION and CONCILIATION SERVICE

FMCS Receives Top Rating—"Best Place to Work"

For the second time, the U.S. FMCS headed the list of small agencies in the 2007 rankings of the "Best Places to Work in the Federal Government" as rated by the non-profit, non-partisan group, Partnership for Public Servants. The rankings are based on responses from more than 221,000 federal workers in 283 federal organizations. Agencies are ranked based on the responses of their own employees to the government-wide, Federal Human Capital Survey conducted by the Office of Personnel Management.

The Agency was top-ranked among small agencies in 2005, based on the previous OPM survey. The rankings

began in 2003, and are conducted every other year.

The FMCS also achieved the highest score in several individual categories, including "employee skills/mission match" and "training and development." The agency achieved second-place rankings in "strategic management," "effective leadership," and "support for diversity," based on employee responses to survey questions.

FMCS Partners with Werner Institute

The U.S. Federal Mediation and Conciliation Service (FMCS) has selected the Werner Institute for Negotiation and Dispute Resolution at the Creighton University School of Law in Omaha, NE to further refine and advance an FMCS pilot program aimed at developing customized workplace dispute resolution systems.

The FMCS pilot program—known as Dynamic Adaptive Dispute Systems (DyADS)—was launched at the agency in June 2004. The ultimate aim of the program is to foster workplaces across the nation where conflict is handled effectively and both employee morale and productivity are increased.

Under DyADS, FMCS mediators have worked with employer and union representatives at pilot sites around the country in a collaborative effort to facilitate the design of state-of-the-art dispute-resolution processes for individual workplaces. The result is a systematic approach targeted to the needs of the organization that adopts it.

FMCS Annual Report for FY 2006

The Federal Mediation and Conciliation Service, which celebrates its 60th anniversary this year, has issued its annual report on FY 2006 activities (see www.fmcs.gov). The report provides detail on the Service's work to prevent and resolve collective bargaining disputes, build quality relationships between the parties, assist in the resolution of grievances, and provide arbitration services.

During the year, agency mediators were involved in nearly 5,500 collective

(Continued on page 11)

(Continued from page 10)

bargaining disputes and helped to bring about settlements in 86 percent of those cases. While the results of many of the agency's activities in relationship-building would seem to defy measurement, Director Arthur F. Rosenfeld provided an economic assessment of the effectiveness of the agency's efforts in labor disputes:

"The financial consequence of strikes and lock-outs can be steep. Using a model developed for the Agency in 2005 by the Employment Policy Foundation, FMCS estimates that work stoppages over the past two years caused employees to lose an estimated 43 working hours and cost \$950 million in lost wages. These stoppages also reduced company profits by \$263 million. Disruption to ancillary businesses over this period is estimated to have cost an additional \$1.1 billion.

However, these costs could be even greater without the positive effects of FMCS' mediation services. In FY 2006 alone, through early intervention in collective bargaining disputes, FMCS is estimated to have prevented 251 work stoppages and reduced work stoppage duration in 196 cases, preventing the loss of at least \$1.7 billion in employees' wages and company profits for U.S. businesses." ❧

NATIONAL LABOR RELATIONS BOARD

Reports on FY 2006 Operations

The National Labor Relations Board reported on its case production in FY 2006, noting that it had issued 477 decisions during the year ending September 30, 2006. The total was down from the previous year's total of 508. The cases in 2006 comprised 324 unfair labor practice cases and 153 representation cases. Chairman Robert J. Battista noted:

"We regret the drop in case production, but we issued some difficult decisions in FY 2006, and that had an adverse impact on our overall production. We are hopeful, with a full Board for all of FY 2007, we will see improved productivity. On

the positive side, we were able to keep lowering our case backlog [from 484 at the beginning of the fiscal year to 305 at the end]."

In January 2007, NLRB General Counsel Ronald Meisburg issued a report on activities of the General Counsel's Office for the previous fiscal year. In highlighting major developments, he noted that 97 percent of meritorious unfair labor practice cases were settled at the Regional Office level. Initial union representation elections were conducted in a median of 39 days from the filing of the petition, with 94.2 percent of all elections conducted with 56 days. Nearly 3,000 employees were offered reinstatement, and back pay or other reimbursement of over \$110 million was obtained in unfair labor practice cases. The full report is on the website, www.nlrb.gov.

NLRB Holds Oral Argument on e-mail case

In March 2007, the NLRB heard oral argument on a case addressing whether an employer can properly bar employees from using the workplace e-mail or other electronic communications system to communicate with other employees about union or other concerted matters. The case involves the Eugene Newspaper Guild, CWA Local 37194, and the Guard Publishing Company, which publishes the Register-Guard in the Eugene, OR area. Among the issues considered were the extent to which the Board's traditional solicitation rules should apply, whether the use of e-mail is a mandatory subject of bargaining, and the relevance of an employee's actual location of work.

NLRB Website Ranks High

The website of the National Labor Relations Board (www.nlrb.gov) has been ranked one of the five best in the federal government by the National Security Archive, a non-governmental research institute housed at George Washington University. The Board launched its new, more interactive website in November 2006, with expanded E-filing options, improved navigational structure, and searchable online depository of documents—

including Arbitration Awards, NMB Annual Reports, PEB (Presidential Emergency Board) Reports, published NMB Representation Determinations, airline and railroad Labor Contracts, airline and railroad Union Constitutions and By-laws, and other documents of interest to the public. ❧

NATIONAL MEDIATION BOARD

Going Paperless

The National Mediation Board announced that it has created the first completely paperless records management system in the federal government. In a press release dated January 19, 2007, the agency stated:

The NMB Website (www.nmb.gov) contains an abundance of free and frequently updated information to practitioners of Labor Relations under the *Railway Labor Act*, which applies to both the airline and railroad transportation industries in the United States. Links are provided on the website to the NMB Knowledge Store, which is a free, searchable online depository of documents...including Arbitration Awards, NMB Annual Reports, PEB (Presidential Emergency Board) Reports, published NMB Representation Determinations, airline and railroad Labor Contracts, airline and railroad Union Constitutions and By-laws, and other documents of interest to the public.

Arbitrator Contact Lists and Resumes Online

The NMB also announced that the agency's roster of arbitrators, including resumes and contact information, is now available on the website. This change was made at the request of the parties, who are required to arbitrate so-called minor disputes (grievances) arising under collective bargaining contracts subject to the *Railway Labor Act*. ❧

—Submitted by Joy K. Reynolds





MISSOURI

Government Workers Win Right to Bargain

by Paul Hampel (St. Louis Post-Dispatch)

The Missouri Supreme Court ruled on May 29, 2007 that public employees have a constitutional right to engage in collective bargaining with their government employers, overturning a precedent set 60 years ago.

The court voted 5-2 to throw out a 1947 state Supreme Court decision that granted collective bargaining only to workers in the private sector. And it voted unanimously to overturn a 1982 decision that allowed public employers, such as school districts and police departments, to discard written agreements with employees.

Until the ruling, governments were required only to “meet and confer” with certain employee groups, but agreements made in those sessions were not binding. The decision came in response to an appeal from the Missouri National Education Association on behalf of employees of the Independence, Mo., School District.

Chief Justice Michael Wolff, who wrote the opinion, noted that the ruling does not compel governments to reach agreements with workers. But when agreements are signed, governments must abide by them.

Wolff wrote that the constitution's guarantee that workers have the right to bargain collectively “is clear and means what it says. Agreements that the school district made with employee groups are to be afforded the same legal respect as contracts made between the district and individuals, although public employees—unlike their private-sector counterparts—are not permitted to strike.”

The 1945 Missouri Constitution, under a heading of “organized labor and collective bargaining,” states: “That employees shall have the right to organize and to bargain collectively through representatives of their own choosing.”

In 1947, the Missouri Supreme Court ruled that provision applied only to the private sector. ☞

NEW JERSEY DEVELOPMENTS

— submitted by
Bob Anderson

New Laws

The Governor recently signed several bills addressing property Tax reform and related issues. A summary of some of the associated Labor relations issues follows.



P.L. 2007, c.62

This law caps any increase in the property tax levy at 4%, with certain exceptions and waivers for local government and school Districts. The cap is in effect for budgets beginning on or after July 1, 2007. The law amends the interest arbitration statute, N.J.S.A. 34:13A-14 et seq. to require interest arbitrators to consider this cap.

The law also amends N.J.S.A. 52:14-17.38 to extend the right to negotiate premium sharing to all State Health Benefit Program employers, effective immediately. It further allows school boards and local government to establish “cafeteria plans” pursuant to section 125 of the Internal Revenue Code. These plans may provide for a reduction in an employee's salary, through payroll deductions or otherwise, in exchange for payment by the employer of medical or dental expenses not covered by a health benefits plan, and dependent care expenses as provided in section 129 of the Internal Revenue Code (Sections 44 and 45).

P.L. 2007, c.63

Effective immediately, this law promotes shared services, joint meetings and municipal consolidations.

In a shared services agreement, one public entity provides services under contract for another. PERC is authorized to provide technical advice and mediation services to integrate separate labor agreements into a single agreement. PERC may order binding arbitration pursuant to the *Police and Fire Public*

Interest Arbitration Reform Act to integrate any labor agreement.

Under a joint meeting contract, a new public entity is created to provide a governmental service for two or more local units. The terms and conditions of employment of existing contracts apply until a new agreement is signed. PERC is authorized to provide technical advice and mediation services to integrate separate labor agreements into a single agreement.

PERC may order binding arbitration pursuant to the *Police and Fire Public Interest Arbitration Reform Act* to integrate any labor agreement.

Where municipalities consolidate, PERC is authorized to provide technical advice to assist in integrating separate labor agreements and to adjust the structure of collective negotiations units. Unlike joint meetings, no provision requires the preservation of the terms of existing contracts pending a new agreement or refers to interest arbitration.

The Commission may propose rules with regard to its responsibilities and establish a fee schedule to cover the costs of services.

Within 14 days of receiving a decision, a party aggrieved by a decision of a mediator or arbitrator assigned by the Commission may file a notice of appeal of an award to the Commission. The Commission may permit oral argument and then affirm, modify, correct or vacate the award, or remand to the same or another arbitrator, selected by lot, for reconsideration. An aggrieved party may appeal to the Appellate Division

P.L. 2007, c. 18

Effective immediately, this law gives school boards and county colleges the power to self-insure for health benefits.

P.L. 2007, c. 54

This law establishes a “Local Unit Alignment, Reorganization, and Consolidation Commission” to develop proposals to effectuate the consolidation of, and sharing of services among, pairs or groups of municipalities, fire districts, and other taxing districts. Proposed consolidations approved by the Legislature will be submitted to the affected voters. ☞

In & around the States...



WASHINGTON

Significant Legislation Affecting PERC and its Clientele

House Bill 2111

On April 21, 2007, the Governor signed into law House Bill 2111, which extends collective bargaining rights to Adult Family Home providers. This law was modeled upon previous laws extending collective bargaining rights to individual care providers and child care providers, and makes the Governor of the

State of Washington the employer of the Adult Family Care providers only for the purposes of negotiating a collective bargaining agreement. The scope of bargaining is limited to (1) economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (2) health and welfare benefits; (3) professional development and training; (4) labor-management committees; (5) grievance procedures; and (6) other economic matters. Retirement benefits are not subject to collective bargaining.

Senate Bill 5251

On April 18, 2007, the Governor signed into law Senate Bill 5251. This bill provides that collective bargaining agreements entered into between cities, counties, or municipal corporations, and their respective labor organizations, and may provide for a term of existence of up to six years. Collective bargaining agreements for listed entities had previously been limited to a maximum term of three years. ❧

In & around the Provinces...



ONTARIO

Firefighters And Work-Related Occupational Diseases

The Ontario Workplace Safety and Insurance Act has been amended to allow the government to make regulations affecting all of Ontario's firefighters—full-time, part-time, and volunteer, as well as fire investigators and forest firefighters. These regulations will recognize eight forms of cancer as work-related, as well as heart injuries suffered within 24-hours of fighting a fire.

Previously the Workplace Safety and Insurance Board (WSIB) assessed each firefighter claim on a case-by-case basis to determine if the disease was work-related. Now, using presumptive legislation, the government identifies through regulations, specific diseases or heart injuries of firefighters that would be presumed to be work-related for the purpose of workers' compensation.

Minister of Labour Appoints Industrial Inquiry Commission in Labourers Strike

On June 11, 2007 Ontario Minister of Labour, Steve Peters, appointed an Industrial Inquiry Commission to facilitate a resolution in the dispute involving the Labourers' International Union of North America (LIUNA) and the Provincial Employer Bargaining Agency—Labourers. Robert J. Herman, an experienced mediator-arbitrator with expertise in the construction industry, has been appointed under Section 37 of the *Labour Relations Act, 1995*, "to inquire into and report to the Minister on any industrial matter or dispute that the Minister considers advisable."

The move follows a province-wide strike in the industrial, commercial and institutional sector of the construction industry begun on June 4, 2007, by LIUNA's members, which is affecting construction sites including hospitals, schools and private industries. ❧

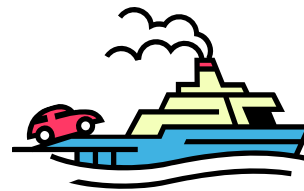
BRITISH COLUMBIA

B.C. to End Mandatory Retirement

Bill 31, introduced on April 25, 2007, will amend the definition of age under the British Columbia Human Rights Code and eliminate 64 years of age as the cap for protection against discrimination. Once this change is passed, mandatory retirement policies requiring retirement at age 65 will not be allowed except in cases where a bona fide occupational requirement can be demonstrated.

Binding Arbitration for B.C. Ferry Workers

B.C. Ferry and Marine Workers' Union and the B.C. Ferry Services Inc., have received a binding arbitration settlement from arbitrator Vice Ready. It is a nine-year settlement dating from 2003 until 2012. Notable is the union's loss of the right-to-strike. Instead, binding arbitration by a dispute-resolution panel made up of Mr. Ready and two others will come into play if the parties cannot reach a settlement of future contracts. ❧



Personalities...



Mary Stevens, former Chair of the Phoenix PERB and an active ALRA member, joined the ALRA delegation for dinner at the winter E-Board meeting in Phoenix. Mary retired from her position at the University of Arizona earlier in the year, and reports that she is enjoying her garden and time with her family.



Jackie Zimmerman (the first and only General Counsel in the 22-year history of the Illinois Labor Relations Board), left her post in December 2006. She plans to set up a consulting service which will include mediation and arbitration. As a past ALRA President, Jackie intends to stay active in the organization and to continue her role as the co-ordinator of the ALRA Academy.

Conference Organizers Toronto 2007



(L-R) **John Mather**; **Les Heltzer**; and **Reg Pearson**

Arrangements Committee Chairman
John Mather (Ontario)

Professional Development Chairman
Les Heltzer (NLRB)

Program Committee Co-Chairs
Reg Pearson (Ontario) and
Sue Bauman (Wisconsin)

ALRA Academy
Jackie Zimmerman (Illinois)

Many Thanks!

Candid Camera...



Laurie Rentala and **Anne Partridge** (Nova Scotia)



Dan Kennedy (Alberta)



Levai Babaya (Minnesota)



(L-R) Unidentified guest, **Sue Bauman** (Wisconsin) and **Dan Nielsen** (Wisconsin).

Investigative Reports...



The truth about Dan Nielsen...

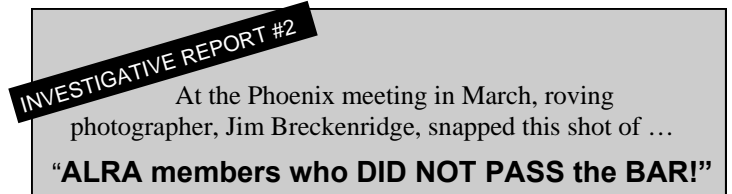
Continuing the *Advisor's* in-depth investigative reporting, in this issue we look below the surface at the real Dan Nielsen.

In a wide-ranging interview, Dan responded to accusations that he is "lame" by stating, "Well, yes, I suppose that's true."

His explanation that he was reaching out to Canadian agencies by attempting ice skating on a neighborhood sidewalk was refuted by witnesses who reported that he was just an incredibly clumsy person, who foolishly started chewing gum at the same time he was attempting to walk.

Dan reported that he is engaged in physical therapy, and that he is assured that with just another seven or so years of rigorous work, he will be in shape to make another stab at walking to his neighbor's house.

On a positive note, our reporter was able to uncover indisputable photographic evidence that, contrary to the long standing rumors that Dan has a screw loose, all eight of his screws appeared to be securely fastened. ☘



At the Phoenix meeting in March, roving photographer, Jim Breckenridge, snapped this shot of ...
"ALRA members who DID NOT PASS the BAR!"



(L-R) **Liz MacPherson** (FMCS-Canada), **Akivah Starkman** (CIRB), **Bob Hackel** (New Jersey), **Jackie Zimmerman** (Illinois), **Pierre Hamel** (PSLRB) and **Josée Dubois** (PSST-Canada).

Goodbye...Joel



Will Weinberg (left) and **Joel Weisblatt**

The following is an excerpt from Joel's January 25, 2007 resignation letter:

Dear Chairman Henderson:

"It is with great pride and appreciation that I look back on the nearly nineteen years I have served as the New Jersey Member of the Port Authority Employment Relations Panel. It was truly an honor to work so closely with Will Weinberg, who chaired the Panel for nearly all of that time. He was a wonderful leader in that he brought an enormous wealth of knowledge and experience to the task and yet always seemed to be fresh and attentive to new issues and concepts. Will served with great distinction and set the tone for the Panel's work...

My opportunity to have served the Panel was a wonderful experience. The work was challenging and the people (Panel and parties) were great to work with. Therefore, it is with some sadness that I write this letter of resignation as the New Jersey Member."

— Joel M. Weisblatt



Appointments

ROYAL CANADIAN MOUNTED POLICE



ALRA Honorary Member and former Head of FMCS Canada, **Mike McDermott**, has been appointed Chairperson of the Royal Canadian Police Pay Council.

Members of the RCMP are excluded from application of Canada's federal labour relations statutes and the Pay Council was established in 1996 to provide advice and recommendations to the Commissioner on pay, benefits and other working conditions for active members of the RCMP up to the rank of Superintendent. The Council is comprised of a neutral chairperson, two senior management representatives and two member representatives.

There are some 20,000 regular and civilian members in the RCMP who, in addition to providing federal policing services, work under contract as provincial police in eight of Canada's ten provinces and as municipal police in a number of communities across the country. ☞

CANADA INDUSTRIAL RELATIONS BOARD (CIRB)

In April 2007, **Mr. Graham Clarke** was appointed as full-time Vice-Chairperson for a term of five years. Mr. Clarke was previous counsel for the firm Hicks Morley and has practised labour and employment law in Ontario and Quebec since 1987. Mr. Clarke's interest in the Board's work dates from the late 1980s when he served as a legal counsel to the predecessor Canada Labour Relations Board. He is the author of *Canada Labour Relations Board: An Annotated Guide* (1992) and more recently of *Clarke's Canada Industrial Relations Board* (1999).

Mr. André Lecavalier, previously a part-time Member of the CIRB representing employers, was appointed as a full-time Member in December 2006.

From 1990 to 2003, Mr. Lecavalier was Vice-President, Human Resources, at Clarke Inc. in Toronto, where he dealt with many aspects of human resources, including the negotiation and administration of several collective agreements across the country.

Mr. Norman Rivard was appointed as a full-time Member of the CIRB representing employees, in January 2007. He was previously the Chair of the Steelworkers-Industrial Wood and Allied Workers of Canada (I.W.A.) Council. He also held the positions of Vice-President and National President of the former I.W.A.

Mr. Daniel Charbonneau's term as full-time Member of the CIRB representing employees has recently been renewed for three years. Mr. Charbonneau has been a Member of the Board since 1999. Prior to his appointment to the Board, Mr. Charbonneau was an advisor with the Service Employees Union, Local 800 (QFL). ☞

PUBLIC SERVICE LABOUR RELATIONS BOARD—CANADA

On November 1, 2006, the Governor in Council appointed **Mr. Casper Bloom**, Q.C., as Chairperson of the Public Service Labour Relations Board (PSLRB) for a term of three years. The position had been vacant since the retirement of its former incumbent, Mr. Yvon Tarte, in May 2006. Mr. Bloom took office on January 2, 2007.



Born in Montréal, Mr. Bloom received a Bachelor of Arts from McGill University, a Master of Business Administration from the University of

Western Ontario, and a Licence en Droit from the Université de Montréal. In 1967, Mr. Bloom was admitted to the Bar of Quebec and began practising law at Ogilvy Renault, where he subsequently became a senior partner and continued practising until 2000.

From 2000 to 2002, Mr. Bloom served as President and Chief Executive Officer of the Canadian Lake Carriers Association, where he was responsible for the labour relations of all the major carriers in the Great Lakes–St-Lawrence Seaway system. From 2002 to 2006, Mr. Bloom served as Legal Counsel and Director of Academic and Employee Relations at Concordia University. ☞

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

Christine A. Derdarian was appointed as Chair of the Michigan Employment Relations Commission on October 8, 2006.

Prior to her retirement from state service in 2002, Chair Derdarian supervised the labor section of the Michigan Attorney General's office.

Besides her familiarity with labor matters, Ms. Derdarian has extensive experience in matters related to administrative law and governmental issues. Her background includes service as the Chief Legal Counsel to the transition team for Governor-Elect Granholm and as Special Legal Counsel to the Governor on the reorganization of State's largest department—the Michigan Department of Labor and Economic Growth—a department which houses MERC and the Bureau of Employment Relations. Presently, Ms. Derdarian is in private practice specializing in government relations, professional licensing, negotiations, and corporate matters.

Ms. Derdarian's appointment as MERC Chair is for a three-year term, expiring on June 30, 2009. ☞

Appointments...

New Executive Director at the Washington State PERC



Cathy Callahan has been named as the new Executive Director of the Washington State Public Employment Relations Commission. She came to PERC on November 1, 2006, after 24 years with the National Labor Relations Board. While with the NLRB, Cathy worked in the agency's Seattle office where she earned a well deserved reputation as a skilled field examiner and, in 1998, was promoted to Officer in Charge of the agency's Portland office. She is well-respected in the labor and management community, and has great ideas for PERC's future. On a personal note, taking the job at PERC actually was a homecoming for Cathy—she grew up in the Olympia, Washington area.

(FMCS at 60 Years—Continued from page 7)

1980, and none of it was as comprehensive as recent work. But the most surprising development is the mediation of employment cases in organizations without union representation.

The technology advancement is also remarkable. The number of communication routes available for today's mediator is in sharp contrast with a 1960s mediator, who had to reach a federal phone operator to place a call, and then often wait five minutes to be connected. A more dramatic example is the vision of 1970s mediator struggling from the parking lot carrying a 75-pound, 16mm film projector with a pick-up reel and film container, then climbing two flights of stairs to a union office to conduct a steward-training program. Today's mediator simply carries a lightweight laptop containing power point presentations and several training CDs.

Happily, some things remain the same. There has been no change in the commitment to helping, to working things out peacefully, to maintaining neutrality and confidentiality, to struggling for another idea or process suggestion, to feeling the work is a calling.

This paper is dedicated to all the mediators who have responded to that calling.

Link: Friends of FMCS History: www.mediationhistory.org

Comments or suggestions? Contact: Jerome T. Barrett, winjerwin@aol.com, (703) 241-3854. ☞

Awards...

FMCS Mediator Receives Gold Award



Commissioner Ditillo (left) displays his "Gold Award" with FMCS Director of Mediation Services, **John Pinto**.

As a result of his demonstrated commitment over numerous years, FMCS Commissioner **Robert (Bob) Ditillo** received the Gold Award in the category of "Outstanding Service to the Public" from the Pittsburgh Federal Executive Board in May 2007.

The Gold Award is the highest level of recognition given by the Pittsburgh Federal Executive Board. Commissioner Ditillo

was recognized for his accomplishments as a mediator and for his successful work in the labor-management community. Each year, the Office of Personnel Management sponsors a program, through local Federal Executive Boards, titled Excellence in Government Awards.

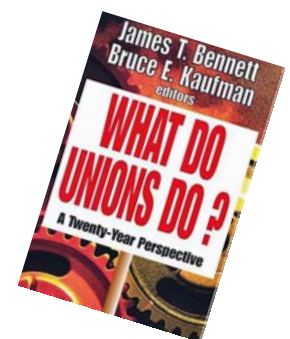
The program is designed to recognize and honor federal employees who best represent their agency's mission and goals. The program encourages innovation and excellence in government, reinforces pride in federal service, and it helps call public attention to the broad range of services provided by federal employees.

From the bookshelf...

What Do Unions Do? A Twenty-Year Perspective

This edited volume provides a twentieth-anniversary retrospective and evaluation of the book *What Do Unions Do?* by Richard Freeman and James Medoff. It has three objectives: to evaluate and critique the theory, evidence, and conclusions of Freeman and Medoff's book; to provide a comprehensive update of the theoretical and empirical literature on unions since the publication of their book; and to offer an assessment and critique of the effects of unions on the economy and society. Articles discuss such topics as the effect of unions on wages and benefits, productivity, income inequality, dispute resolution, and job satisfaction.

—Edited by James T. Bennett and Bruce E. Kaufman, New Brunswick, N.J.: Transaction Publishers, 2007. 660 p. ISBN:978-1-4128-0594-0



Nominations...

The offices up for election this year and the declared candidates, are:



EXECUTIVE

President-Elect:

Incumbent, **Elizabeth MacPherson**, Director General FMCS (Canada), will automatically become President at the close of the Toronto Conference.

Phillip Hanley, Management Member of the Phoenix Employment Relations Board has stated his intention to seek the office of **President-Elect**.

Vice President—Professional Development:

Incumbent Vice President—Professional Development **Les Heltzer**, Executive Secretary of the National Labor Relations Board, has indicated his intention to seek re-election

Vice President—Administration:

Incumbent Vice President—Administration **Robert Hackel**, Director of Administration for the New Jersey PERC, has indicated his intention to seek re-election.

BOARD MEMBERS

Mary Johnson, General Counsel, National Mediation Board, has stated her intention to seek re-election.

Susan Bauman, Member of the Wisconsin PERC, has stated her intention to seek re-election.

Akivah Starkman, Executive Director of the Canada Labour Relations Board, has stated his intention to seek re-election.



Josée Dubois
(PSST)

Josée Dubois, Executive Director and General Counsel of the Canada Public Service Staffing Tribunal who recently was appointed to fill out an unexpired term on the Executive Board, has indicated her intention to stand for election to retain the position.



Marlene Gold
(New York)

Should Phillip Hanley be elected President-Elect, **Marlene Gold**, Chair of the new York Office of Collective Bargaining, has stated her intention to seek that position on the Board.



Toronto Island—Photo Tourism Toronto

The ALRA Hat
Where is it?
Will it be found?
Who will wear it?
Stay tuned!



Hockey Hall of Fame—Photo Tourism Toronto

ALRA Executive Board

President

Marilyn Glenn Sayan (360) 426-7440
State of Washington Public Employment
Relations Commission
e-mail: sayanglenn@aol.com
[TERM ENDS JULY 2007]

President-Elect

Elizabeth MacPherson (819) 997-1118
Federal Mediation and Conciliation
Service (Canada)
e-mail: elizabeth.macpherson@hrsdc-
rhdsc.gc.ca
[TERM ENDS JULY 2007]

Immediate Past President

Jaye Bailey (860) 566-3306
Connecticut State Board of
Labor Relations
e-mail: jaye.bailey@ct.gov
[TERM ENDS JULY 2007]

Vice President—Administration

Robert A. Hackel (609) 292-9830
New Jersey Public Employment
Relations Commission
e-mail: rhackel@perc.state.nj.us
[TERM ENDS JULY 2007]

Vice President—Finance

Scot Beckenbaugh (202) 606-8100
Federal Mediation &
Conciliation Service—U.S.
e-mail: sbeckenbaugh@fmcs.gov
[TERM ENDS JULY 2008]

Vice President—Professional Development

Lester A. Heltzer (202) 273-1940
National Labor Relations Board
e-mail: lester.heltzer@nlrb.gov
[TERM ENDS JULY 2007]

BOARD MEMBERS

Pierre Hamel (613) 990-1830
Public Service Labour Relations
Board
e-mail: Pierre.hamel@pslrb-
crtfp.gc.ca
[TERM ENDS JULY 2008]

Phillip E. Hanley (602) 262-4024
Phoenix Employment Relations
Board
e-mail:
hanley@superiorcourt.maricopa.gov
[TERM ENDS JULY 2008]

Mary Johnson (202) 692-5036
National Mediation Board
e-mail: johnson@nmb.gov
[TERM ENDS JULY 2007]

Susan Bauman (608) 266-1381
Wisconsin Employment Relations
Commission
e-mail:
susan.bauman@werc.state.wi.us
[TERM ENDS JULY 2007]

Akivah Starkman (613) 947-5429
Canada Industrial Relations Board
e-mail: astarkman@cirb-ccri.gc.ca
[TERM ENDS JULY 2007]



Marilyn Glenn Sayan
President
(Washington State)



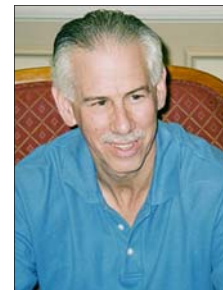
Elizabeth MacPherson
President-Elect
(FMCS-Canada)



Jaye Bailey
Past-President
(Connecticut)



Scot Beckenbaugh
VP—Finance
(US-FMCS)



Robert Hackel
VP—Administration
(New Jersey)



Les Heltzer
VP—Professional
Development (NLRB)



Phillip Hanley
(Phoenix)



Mary Johnson
(NMB)



Sue Bauman
(Wisconsin)



Akivah Starkman
(CIRB)



Pierre Hamel
(PSLRB)



ALRA Conference 2008...

Join us in Vermont...



Tim Noonan
(Vermont)

The Vermont Labor Relations Board is looking forward to once again hosting the ALRA Conference from July 19-23, 2008. The Board was pleased and honored to host the 1991 ALRA Conference, and welcomes the opportunity to again have Vermont as the venue for ALRA's annual gathering.

As was the case in 1991, Burlington again is the site for the conference. Located on the eastern shore of Lake Champlain, between the Green Mountains and the Adirondacks and just south of the Canadian border, Burlington is the economic and cultural center of Vermont. Burlington has long been rated as one of the most desirable places in the United States to live and visit. It is a cosmopolitan city in a setting of lake and mountain beauty. It is easily accessible from all points of North America via major interstate highways and the Burlington International Airport, which is served by seven major airlines and has over 100 flights a day. In addition, Amtrak offers daily service to Burlington from Washington, New Jersey, New York City, Connecticut and western Massachusetts.

The conference hotel is the Sheraton Burlington Hotel and Conference Center. The Sheraton, site of the 1991 conference, is Vermont's largest conference center. It is adjacent to the attractive University of Vermont campus and is a mile from downtown. It has 309 guestrooms that have all been renovated recently, and a conference center accommodating up to 1,000 that also recently has been completely renovated. Daily room rates below \$100 have been arranged with the Sheraton.

Burlington's location is ideal for the social activities of ALRA delegates and their families. There are many attractions available within minutes of the hotel, including:

- *Lake Champlain Shoreline Cruises* – 500 passenger triple-deck cruise ship offers sunset dinner cruises with live entertainment.
- *Shelburne Museum* – Diverse and extensive collection of Americana, folk art, French Impressionist and American paintings, and New England history. 150,000 works are uniquely displayed in 39 exhibition structures on 45 acres.
- *Shelburne Farms* – 1,400 acre working farm and national historic landmark.

- It includes walking trails, children's farmyard, cheese-making tour and perennial gardens.
- *Echo Center* – Lake Aquarium and science center on Burlington's Lake Champlain waterfront.

Other attractions less than an hour away include the ever popular Ben and Jerry's Factory Tour, Stowe and the Morgan Horse Farm. Montreal is only 90 miles to the north.

Summer recreation opportunities for swimming, boating, fishing, golf, tennis, hiking, running, bicycling and hiking are abundant.

There is much to offer in the Burlington area in July with respect to cultural activities, including the Mozart Festival, St. Michael's Playhouse and offerings at the beautifully restored Flynn Center for the Performing Arts.

Those interested in fine dining will not be disappointed. Burlington is known for its many fine restaurants serving a variety of cuisine.

Burlington also offers shopping opportunities from the Church Street Marketplace to malls as diverse as you would find in much larger cities.

Although there is no major league baseball in Vermont, there is a minor league baseball team which plays at University of Vermont's historic Centennial Field.

