

Index

ABANDONMENT

- As defence to certification application, **9:8**
- As grounds for decertification, **9:8**
- Automatic renewal clauses, **9:8**
- British Columbia, **9:8**
- Clean Hands required, **9:8**
- Construction industry, **9:8**
- Entitlement to vote, **9:2**
- Estoppel, arising from, **9:8**
- Factors considered, **9:8**
- Failure to assert rights, **9:8**
- Futility of bargaining, **9:8**
- ICI sector, **9:8**
- Manitoba, **9:8**
- Newfoundland and Labrador, **9:8**
- Nova Scotia, **9:8**
- Onus of proof, **9:8**
- Part of bargaining unit, **9:8, 9:18**
- Rule and its defence, **9:8**
- Saskatchewan, **9:8**
- Statutory basis, **9:8**
- Threat of, as unfair labour practice, **9:8, 10:20, 10:39**
- Unequivocal evidence, need for, **9:8**
- Union status lost, **9:13**

ABORIGINAL PEOPLES

- See INDIGENOUS PEOPLES AND RESERVES

ACCREDITATION

- See also CERTIFICATION
- Restrictions on bargaining authority, **15:5, 15:7, 15:8**

ADMINISTRATIVE LAW

- Advent, **5:1**
- Regulatory boards
 - labour boards, natural direction, **5:1**
 - overview, **5:1**
- Rule of discretion vs. rule of law, **5:2**

AERONAUTICS

- Federal jurisdiction, residual power, **3:10**
- Integral activities, **3:10**

AGENTS

- See BARGAINING AGENTS

AGRICULTURAL WORKERS

- Agricultural Employees Protection Act, 2002 (Ont.), **2:9, 3:25, 3:26, 6:12**
- Agriculture, Food and Rural Affairs
 - Appeal Tribunal, **2:9, 3:25, 6:12**
- Freedom of association, **3:25, 3:26, 6:12**
- Quebec, **6:12**

ALBERTA

- Alberta Labour Act
 - evolution of, **2:3**
 - initial provisions, **2:3**
- Arbitral review, **4:2, 4:4, 4:16, 4:23, 12:17**
- Arbitration or otherwise, **4:16, 4:19, 12:5**
- Bargaining units, standard, **7:23**
- Certification
 - bars, **7:58, 7:59**
 - card-based, **7:24, 7:52, 7:61**
 - decertification, votes, **2:3**
 - expedition and revocation, **2:3**
 - single date voter eligibility rule, **7:53**
 - two or more unions joined for, **2:3**
 - vote-based, **7:24**
- Collective bargaining
 - good faith, **2:3**
 - multi-party bargaining, **2:3**
- Conciliation boards, **2:3**
- Construction industry, **15:3, 15:5, 15:6**
- Dependent contractors, **6:2, 6:6**
- Duty of fair representation, **13:1, 13:8**
- Employees, individual rights, **2:3**
- Employers, spin-off clause, **2:3**
- Essential services, **2:3**
- First agreement arbitration, **10:47**
- Industry bargaining, **2:3**
 - Labour Relations Act, **2:3**
 - Labour Relations Code, **2:3**
- Labour board
 - informal procedure (settlement efforts), **5:8, 11:19**
 - intervenor status, **5:8**

ALBERTA—Cont'd

- Labour board—Cont'd
 - marshalling of proceedings, **5:8**
 - production powers, **5:8**
 - review of arbitrators, **2:3, 4:2, 4:16, 4:23, 12:17**
 - summary dismissal, **5:8, 13:16**
- Legislation
 - regular revisions, **2:1**
- Managerial exclusions, **6:3**
- Mediation boards, **2:3**
- Notice to bargain, extension of time for, **2:3**
- Notice to extend bargaining freeze, **10:14, 10:47**
- Oil sands plants, **2:3**
- Picketing, **11:19, 11:23**
- Privative clause, **4:2**
- Reconsideration, **5:13**
- Regional health authorities, **2:3**
- Remedial certification, **7:65**
- Revocation, no employees in bargaining unit for three years, **9:6**
- Strike and lockout votes, **11:25**
- Strikes, approval of, **2:3**
- Strikes or lockouts
 - ex parte injunctions, **2:3**
 - time for, **2:3**
- Time limits
 - relief against, **5:14, 12:8**
- Trade union dues
 - disclosure of and consent to political expenditures, **2:3, 3:27, 14:7, 14:27, 14:35**
 - disclosure of political expenses, **2:3, 14:7, 14:27, 14:35**
- Trade union status, **6:7**
- Voluntary recognition/revocation, **7:51**
- War industries fall to national board, **2:3**

AMALGAMATION

- Generally, **8:2**
- School boards, **8:5**

ARBITRATION

- See also REMEDIES
- Arbitrator
 - appointment of, **4:10, 12:6**
 - general powers of, **12:8**
 - remedial powers of, **12:19**
- Bargaining in bad faith, **10:48**

ARBITRATION—Cont'd

- Clause
 - access to, **12:5**
 - adequacy of, **12:5**
 - requirement of, **1:4**
- Collective agreement, enforcement, **12:15, 12:16**
- Compulsory, early legislation, **1:2**
- Conciliation, early legislation, **1:2**
- Deferral to, unfair labour practices, **10:31**
- Employee access, individual rights, **13:8**
- Enforcement procedures, United States compared, **1:4**
- Expedited procedures, **2:4**
- First-agreement, **10:47**
- Good faith administration of a collective agreement, **12:18**
- Grievance arbitration
 - damages, **12:8, 12:19**
 - general arbitration, vs., **4:16**
 - institutionalization of, **4:17**
- Human rights enforcement, **3:18, 12:5, 12:19**
- Industrial democracy, **12:15**
- Labour board review, **4:2, 4:16, 4:21, 4:23, 12:17**
- Ministerial appointment, **4:10**
- Public interest in, **12:4**
- Quebec municipal sector, **2:11, 4:19**
- Statutory expedited access
 - collective agreement time-limits, **12:7**
 - procedure, **12:7**
 - provincial variations, **12:7**
- Strike, alternative to, **11:28**
- Substantive and justiciable rights, **12:5**
- Unlawful strike or lockout, time delays, **11:7, 12:19**
- Voluntary interest
 - collective agreement clause, **11:28**
 - process initiation, **11:28**
- Wrongful dismissal, Quebec, **12:19**

ARBITRATION BOARDS

- Hallmarks of, **4:16**
- Judicial review
 - see JUDICIAL REVIEW

ARTISTS

- Collective bargaining, access to, **5:19**

ATOMIC ENERGY

- Federal declaratory power, **3:12**

INDEX

BARGAINING AGENTS

- Construction industry, employee bargaining agencies, **15:13**
- Exclusive, Charter rights, **3:27**
- Municipalities, merger of, **8:5**
- Reinforcing recognition of, duty to bargain, **10:24**
- Unions
 - not individuals, **2:1**
 - percentage required, **2:13**
- Voluntary recognition agreements, revocation of, **15:7**

BARGAINING REPRESENTATIVES

- Duties, bad faith, discrimination and arbitrariness prohibited, **2:2**

BARGAINING RIGHTS

- Abandonment, **9:8**
- Attachment of, business not owner, **8:1**
- Bankruptcy, **8:2**
- Bargaining, meaning of, **9:4**
- Cessation of employer, **9:14**
- Change of employer, **9:12**
- Change of union, **9:11**
- Estoppel, **9:8, 12:2, 15:5, 15:13**
- Insolvency, **8:2**
- Job functions and customers, not attached to, **8:4**
- Laches, **9:8, 15:10**
- Ontario, by ministerial designation, **15:9**
- Poly-party, **6:7**
- Privity of contract, alteration of, **8:1**
- Protection of, related employers finding, **8:6**
- Successors
 - see SUCCESSORS
- Termination
 - see TERMINATION OF BARGAINING RIGHTS

BARGAINING UNITS

- Accretion
 - as grievance arbitration, **7:17**
 - community of interest, **7:17**
 - conflicting authorities, **7:17**
 - natural expansion, **7:17**
- Alberta, **7:8, 7:10, 7:16, 7:18, 7:23**
- Appropriate bargaining unit, **7:2**
- Bargaining structure, versus, **7:9, 11:31, 15:11**

BARGAINING UNITS—Cont'd

- British Columbia
 - bargaining unit consolidation, **7:18**
 - building cleaning services, **7:18, 7:22, 8:4**
 - difficult to organize, thresholds, **7:7**
 - fragmentation and predictability, **7:4, 7:9, 7:10, 7:22**
 - health authority, bargaining agent anti-proliferation policy, **7:9**
 - healthcare service provider industry, **7:4, 7:10**
 - multiple locations, **7:10**
 - part-time, **7:22**
 - sales staff, **7:22**
 - second unit presumption against proliferation, **7:10**
- Build-up principle, **7:52, 7:58**
- Carve out issues, **7:19**
- Certification
 - see CERTIFICATION
- Consolidation principles, **7:17 to 7:19, 7:22, 8:5, 15:3**
- Count
 - individuals included, **7:25**
 - replacements, **7:52**
 - unlawful termination, **7:25**
- Craft units
 - American experience, **7:11**
 - apprenticeship legislation, **7:16, 15:6**
 - British Columbia, **7:14, 15:3, 15:6**
 - carve outs/severance, **7:13, 7:16**
 - history in particular industry, **7:12, 7:16**
 - hybrid bargaining structures, **15:3, 15:6**
 - industrial-all employee unit, application, **7:8, 7:11, 7:14, 8:6, 15:3, 15:6**
 - initial sympathy, **7:11**
 - no specific reference, **7:16**
 - nurses, **7:4, 7:7**
 - Ontario, mandatory, **7:12**
 - policy and provisions, **7:14**
 - precondition, as, **7:12**
 - representative of skills, as, **7:12**
 - review non-union employees, **8:5**
- Saskatchewan, **7:16**
- severance
 - considerations, **7:13, 7:14, 7:16**
 - construction industry, **7:13 to 7:15**

BARGAINING UNITS—Cont'd

Craft units—Cont'd
 severance—Cont'd
 discretion of board, **7:13 to 7:16**
 examples of crafts, **7:13**
 nature of, **7:13**

Description
 principles of interpretation, **7:17**

Determination of
 access to collective bargaining, **7:2, 7:3, 7:10, 7:19, 7:22**
 an vs. the appropriate unit, **7:5**
 British Columbia, **7:22**
 Canada Labour Code, **7:9, 7:10**
 carving out, fear of fragmentation, **7:4, 7:19**
 case-by-case, **7:10**
 choice of units, employee preference vote, **7:8**
 criteria
 community of interest, **7:3 to 7:9**
 employee freedom vs. labour harmony, **7:3**
 legislative lack of standards, **7:3**
 likelihood of serious labour relation harm, **7:3**
 more than one employee, **7:2, 7:3**
 specific employees, **7:3**
 standard units, **7:20 to 7:23**
 displacement/raid, **7:4, 7:13, 7:53, 9:3, 15:6**
 employer's familial relations, **6:16, 7:6**
 employer's territorial and administrative organization, **7:7**
 fragmentation principles, **7:19**
 history of collective bargaining, significance, **7:4**
 industrial stability, **7:2, 7:3, 7:10, 7:19, 7:22**
 industry patterns, **7:4**
 inquiries, statutory basis, **7:8**
 intervenors, **7:1**
 labour board mandate, **7:2**
 likelihood of serious labour relations harm, **7:4**
 minimum number of employees, **7:2**
 Ontario, **7:9**
 displacement/raid, **7:4, 7:13, 7:53, 9:3, 15:6**
 parallel of employer's organization, **7:7**

BARGAINING UNITS—Cont'd

Determination of—Cont'd
 similarity of skills, duties and conditions, **7:6**
 tag end unit, **7:6**
 Temporary Foreign Worker Program, **7:21**
 threshold for employee lists, **7:24**
 trade union organization, **7:8**
 wishes of employees, **7:8**
 wishes of parties
 long-term peace, **7:8**
 variation of deference, **7:8**

Different classifications, **7:10**

Employer-wide
 British Columbia, **7:10**
 eventually combination of small units, **7:10**
 something vs. the best, **7:10**

Essential service issues, **7:9, 7:19**

Exclusions, **6:3, 6:16, 7:6**

Expansion, **7:17**

Federal
 airports, **7:10**
 blue vs. white collar, **7:23**
 large vs. more local, **7:10**
 office employees on departmental basis, **7:23**
 part-time employees, **7:23**
 sale of business, **7:18**
 technical employees, **7:23**

First Nations, **7:19**

Fragmentation, **7:19**

Geographic boundaries
 longshoring, **7:23**
 one municipality, **7:10**
 province-wide, **7:10**

Greatest attachment, **7:53**

Hard to organize, **7:7**

Hard to organize industries, **7:10**

Industry specific rules, **7:9**

Initial application, **7:3**

Jobs not persons, **7:20**

Manitoba, fear of fragmentation, **7:19**

Membership evidence
 see EVIDENCE OF MEMBERSHIP

Membership in, prime function test, **6:4, 7:53**

More than one employee, **7:2**

Multi-employer certification, **7:2, 7:23**

BARGAINING UNITS—Cont'd

- Multi-location vs. single-location units
 - Alberta, **7:8, 7:10**
 - boundary considerations, **7:10**
 - British Columbia, **7:10**
 - conflicting uses of bargaining unit, **7:10**
 - controversy, **7:10**
 - employer's perspective, **7:10**
 - Ontario, **7:10**
 - retail chain, **7:10**
 - standardization of conditions, **7:10**
- Multiple work locations, **7:10**
- Multi-union units, **7:18**
- Nationwide, Canada Labour Relations Board, ideal unit, **7:10**
- New Brunswick, **7:17, 7:23, 15:6**
- Newfoundland and Labrador
 - offshore, **3:27, 7:9**
- Nova Scotia
 - bargaining unit consolidation, **7:18**
 - casual/relief employees, **7:23**
- One only, **7:53**
- Ontario
 - displacement, **7:4, 7:13, 7:53, 9:3, 15:6**
 - office, clerical and technical vs. production jobs, **7:21**
 - part-time vs. school vacations, **7:21**
 - public sector, **6:15**
 - Public Sector Labour Relations Transition Act, 1997, **7:10**
 - sales staff, **7:21**
 - single division, **7:7**
 - technical staff, **7:21**
 - threshold for employee list, **7:24**
- Poly-party units, **7:18**
- Prince Edward Island, **7:23**
- Related employer, use of, **7:10, 7:22**
- Representation votes
 - see REPRESENTATION VOTES
- Restructuring, Charter rights, **3:25**
- Review
 - Alberta board, **7:18**
 - British Columbia board, **7:18**
 - Canada board, **7:18**
 - criteria, **7:18**
 - New Brunswick, **7:18**
 - Ontario, **7:10, 7:18**
 - related employer, **7:18**
 - successorship, **7:18**
 - Saskatchewan, **7:10, 7:23**

BARGAINING UNITS—Cont'd

- Scope
 - new positions, **7:17**
 - unfair labour practice, **7:17, 10:22, 10:39**
- Size of groupings, considerations, **7:2, 7:23**
- Standard units, **7:20 to 7:23**
- Standing, employees, **7:8**
- Submergence, **7:9**
- Supervisory units, **7:8, 7:9**
- System-wide
 - fragmentation, **7:10**
 - politically mandated, **7:10**
 - railway industry, **7:10**
 - trucking, **7:10**
- Vary, application to, **7:22**
- Voluntary recognition
 - advantages, **7:51**
 - Ontario
 - competing unions, **7:51**
 - conciliation provisions, **7:51**
 - provisions affecting, purpose of, **7:51**

BOARDS

- See also ARBITRATION BOARDS; LABOUR BOARDS
- Minister, referral by, **2:2**
- Powers
 - bargaining representatives, **2:2**
 - evidentiary regulations, **2:2**
 - increase of, **2:2**

BOYCOTTS

- See PICKETING

BREACH OF CONDUCT

- Employee, protection of, Master and Servant Act, 1867, **1:2**

BRITISH COLUMBIA

- Administrative Tribunals Act
 - patently unreasonable review standard, **4:2, 4:9**
- Arbitral review, **4:2, 4:16, 4:19, 4:21**
- Arbitration, **2:4**
- Bargaining units, consolidation, **7:18**
- Build-up principle, **7:58**
- Card-based certification, **2:4, 7:24, 7:25, 7:53, 7:56**

BRITISH COLUMBIA—Cont'd

Certification campaign
proper cause for discipline required, **10:3**

Certification of unions, pre-war, **2:4**

Collective agreements
failure to file, **12:2**
power to impose, **2:4**
uncertified unions, **2:4**

Collective bargaining, council power to intervene, **2:4**

Complaint investigation, **2:4**

Conciliation officers' reports, **2:4**

Confidential capacity, **6:5**

Consumer leafletting, **3:29, 11:12**

Court of Appeal arbitral review jurisdiction, **3:17, 4:2, 4:16, 4:21**

Deferral to arbitration, **10:31, 12:16**

Deferral to human rights tribunal, **10:31**

Dismissal during organizing drives, **2:4**

Early representation vote, **2:4**

Employer free speech, **2:4, 10:9**

Employers, unfair practices, **2:4**

Employers' organizations, accreditation, **2:4**

Essential Services Disputes Act, **2:4**

Essential services under School Act, **2:4**

Grievance procedures, **2:4**

Health Authorities Act, **11:31**
health authority, bargaining agent anti-proliferation policy, **7:9**

Hot cargo clause, **11:2**

Industrial Conciliation and Arbitration Act, **2:4**

Industrial Relations Act, **2:4**

Industrial relations council
power, **2:4**
rights of individuals and public, **2:4**

Industry- and province-wide negotiations, **2:4**

Industry councils, **11:29**

Judicial Review Procedure Act, **4:21**

Labour Code, **2:4**

Labour Code of British Columbia Act, **2:4**

Labour Relations Act, **2:4**

Labour relations board, **2:4, 5:5, 12:17**
casual employees, **7:22**
jurisdiction, original and appellate, **5:5, 12:17**
officers, immunity of, **2:4**

BRITISH COLUMBIA—Cont'd

Labour relations board, **2:4, 5:5, 12:17**
—Cont'd
powers, **2:4**
reconsideration, **5:13**
review of arbitrators, **4:2, 4:16, 4:21**
voluntary recognition, **7:51**

Labour Relations Code, **2:4**

Mediation commission
composition of, **2:4**
powers and procedures, **2:4**
public interest disputes, **2:4**

Mediation Commission Act, **2:4**

Mediation officers, **2:4**

Mediation Services Act, **2:4**

Multi-party bargaining, **2:4**

Picketing
see PICKETING

Privative clauses, broad protection of board, **4:2**

Provincial resident for extraprovincial company, **2:4**

Public interest
binding arbitration, **2:4**
essential services, adequate levels, **2:4**
industrial relations council, **2:4**
inquiry boards, **2:4**
ministerial declaration service essential, **2:4**

Public's right to information, **5:5**

Referee, employee's complaint, **2:4**

Replacement workers, **2:4, 10:7**

Representation vote, **2:4**

Right to communicate, **2:4**

Secondary boycott agreements, **2:4**

Special advisors to review Code, **11:29**

Strike
declaration of, **2:4**
defined, **2:4**
during collective agreement, **2:4**

Strike votes, government supervised, **2:4**

Successorship, building services, **8:4**

Successorship, building services plus, **8:3, 8:4, 8:7, 8:9**

Technological change, meaning of, **2:4, 12:14**

Trade-unions Act, 1959, **2:4**

Unfair employer declarations, **11:2**

INDEX

BRITISH COLUMBIA—Cont'd

Unions

certification

card-based, **2:4, 7:24, 7:25, 7:53, 7:56**

construction industry, **2:4**

levels, **2:4**

mandatory votes, **2:4**

poly-party, **7:18**

coercion, **2:4**

decertification, **2:4**

discrimination, **2:4**

legal entities, **2:4**

power to sue and be sued, **2:4**

religious objections, **2:4**

successors, **2:4**

Voting, majority voting vs. majority eligible, **2:4**

Working conditions, freeze, **2:4**

Workplace democracy, **2:4**

BUSINESS

Bargaining rights, owner compared, **8:1**

Employees, vested rights in, **8:1**

Nature of

functional economic vehicle, **8:2**

Ontario, **8:2**

Quebec, **8:2**

Sale of

see SALE OF BUSINESS

CANADA

Future developments

alternatives, **1:6**

decline of unionization, **1:6**

fissuring of work force, **1:6**

globalization, **1:6**

segmentation of work force, **1:6**

Unions

density statistics, **1:6**

CANADA INDUSTRIAL RELATIONS BOARD

See CANADA LABOUR BOARD; CANADA LABOUR CODE

CANADA LABOUR CODE

Application for certification

just cause requirement, **10:3**

Appropriate bargaining unit principles, **7:3, 7:5, 7:10, 7:15, 7:17 to 7:19**

Bankruptcy, **2:2, 8:2**

CANADA LABOUR CODE—Cont'd

Bargaining duty, **10:22**

Bargaining units, accretion, **7:17**

Bridging clauses, **10:14**

Certification, levels of support, **2:2**

Collective bargaining, good faith, **2:2**

Constitutional jurisdiction, board's approach, **3:2**

Craft units, policy and provisions, **7:15**

Deferral, **8:11**

Dependent contractor, defined, **2:2**

Employees covered, **2:2**

Employer, true, **6:6**

Employer free speech, **10:4, 10:9**

Employer's property rights, employees' freedoms balanced, **10:8**

Enforcement, **10:53**

Evolution of, **2:2**

Extending time limits, **6:6**

Fair representation of all employees, **2:2**

Framework for collective bargaining, **10:22**

Fraud, **7:46, 9:16**

Freeze of working conditions, **10:12, 10:14**

Interim relief, **10:39**

Labour board, termination of bargaining rights, **9:2**

Legislation

evolution of, **2:2**

origins, **2:2**

Managers, as employees, **6:3**

Mandatory representation votes, **2:2, 7:24**

Membership evidence, **7:46**

Pension, sickness and maternity benefits, **2:2**

Postal services, **3:13**

Precursors, **1:2**

Privative clauses, history of, **4:2**

Provincial enabling legislation, **1:2**

Remedial certification, **10:49**

Sexual harassment, prohibition of, **2:2**

Staffing agency, **6:6**

Technological change, notice provisions, **2:2**

Time limits, approach, **10:34**

Unfair practices, complaints, **2:2**

Union dues, deductions, **2:2**

Unjust dismissal complaints, **5:19**

**CANADIAN CHARTER OF RIGHTS
AND FREEDOMS**

Administrative decisions, **3:19**
 Administrative discretion, **3:20, 3:22, 4:11**
 Analogous grounds, discrimination, **3:31**
 Anti-corruption measures, **3:26**
 Application and enforcement, **3:19**
 Availability
 citizens vs. non-citizens, **3:21**
 collective rights, **3:21**
 corporations and unions, **3:21**
 corporations in criminal defence, **3:21**
 economic liberty/fundamental justice, **3:21, 3:25, 3:26, 3:30, 3:31, 3:34**
 equality, **3:25, 3:26, 3:30 to 3:32**
 everyone construed, **3:21**
 exclusions
 nurse practitioners, **3:26, 6:10**
 individual construed, **3:21**
 persons and individuals, **3:21**
 Boycotts, private disputes not covered, **11:17**
 Captive audience, listeners' rights, **3:29, 11:16**
 Civil servants, political activity, **3:33**
 Collective agreements
 avenues of review, **3:30**
 mandatory retirement, **3:30**
 not government action, **3:30**
 Collective bargaining, **3:25, 3:27**
 constitutional protection, **3:25**
 Compliance, New Brunswick, **2:6**
 Compulsory interest arbitration, **3:25**
 Conflict of interest provisions, **3:26**
 Constitutional role of courts, **3:19**
 Construction industry deemed non-construction employer, **3:25, 15:5**
 Contempt orders subject to, **3:28**
 Discrimination, **3:26, 3:31**
 defined, **3:26**
 partial repeal of a statute, **3:26**
 Duty to consult affected parties, **3:25**
 Evidence
 administrative tribunals, **3:20**
 civil disputes, **3:20**
 exclusion in criminal context, **3:20**
 judicial deference, **3:22, 3:25**
 privately obtained used for prosecutions, **3:20**

**CANADIAN CHARTER OF RIGHTS
AND FREEDOMS—Cont'd**

Exclusions
 agricultural employees, **3:19, 3:25, 3:26, 3:28, 6:12**
 agricultural workers, **3:25, 3:26**
 association, **3:26**
 casual employees, **3:26**
 deemed non-construction employer, **3:25, 15:5**
 domestics, **3:26**
 economic liberty, **3:26**
 horticultural employees, **3:26, 6:12**
 managers, **3:26**
 non-union spin-offs, **3:27**
 race or sex, **3:26**
 RCMP, **3:26, 6:15**
 security issues, **3:26**
 Exclusivity
 all-employee bargaining units, **3:27**
 bargaining agents, **3:27**
 collective bargaining security, **3:27**
 freedom not to associate, **3:27**
 common law consistency, **11:15**
 non-affiliation clauses, **3:27**
 strike and lockouts, **3:27**
 First Nations, **7:19**
 Freedom of association
 see FREEDOM OF ASSOCIATION
 Freedom of religion, **3:34**
 Freedom of speech
 see FREEDOM OF SPEECH/
 EXPRESSION
 Government action
 generally, **3:19**
 administrative tribunals, **3:19**
 airports, **3:19**
 as distinct from private action, **3:19**
 common law, **3:19**
 executive intervention, **3:25**
 government inaction as action, **3:19**
 hospitals, **3:19**
 managerial discretion, **3:32**
 municipalities, **3:19**
 narrowed to review of, **3:19**
 remedial powers, **3:19**
 school boards, **3:19, 3:31, 3:32**
 underinclusiveness, **3:19**
 universities, **3:19**

INDEX

CANADIAN CHARTER OF RIGHTS AND FREEDOMS—Cont'd

Interim/interlocutory injunctions, **2:3, 3:20**
Jurisdiction to apply, **4:19**
tribunals, **3:20**
Labour relations, effect on, **3:24**
Liberty (s.7), **3:21, 3:26, 3:27**
Limits on rights
benefactors of limits considered, **3:22**
deference to legislation, **3:22**
evidence to support, **3:22**
judicial conservatism, **3:22**
judicial reluctance to set labour rights
balance, **3:22**
non-governmental defenders, **3:22**
proportionality test, **3:22**
right of the individual, **3:21**
tests, **3:22**
Managerial discretion, **3:32**
Mandatory retirement, **3:19**
Methodology of inquiry, **3:22**
Notice, **3:5**
Notwithstanding clause
reasons for, **3:23**
uses of, **3:23**
Onus, **3:22**
Open court principle, **4:14, 5:12, 10:37.50, 13:18**
Pay restraint legislation, **3:25**
Picketing, degree of protection, **3:29**
Positive claims, **3:25, 3:26, 3:28**
Practice and procedure
labour board powers, **3:31**
limited union access, **3:31**
offences, burden of proof, **3:31**
private disputes, **3:29**
reversal of onus, **3:31**
role of courts, **3:29**
statutory control, **3:29**
Prince Edward Island, unfair labour
practice, **2:10**
Procedural aspects
reversal of burden of proof, **3:31**
solicitation restrictions, **3:31**
speech, anti-union petitions, **3:31**
unreasonable search and seizure, **3:31, 3:32, 4:19**
Reference, inappropriate forum, **3:22, 3:25**

CANADIAN CHARTER OF RIGHTS AND FREEDOMS—Cont'd

Remedies
administrative bodies, **3:20**
bases of, **3:20**
damages, **3:20, 3:25**
declaration (s. 52) and damages (s. 24(1)), **3:20, 3:25**
exclusion of evidence, **3:20**
expert bodies, **3:20**
French vs. English versions, tribunals
vs. courts, **3:20**
guidelines, **3:20**
interim, **3:20**
interplay between, **3:20**
judicial oversight, **3:20**
personal remedy, **3:20**
retroactive v. prospective, **3:20, 3:25**
rights vs. substantive violations, **3:20**
suspended declaration, exemption
from, **3:20**
suspended declaration, temporary, **3:20**
Representation votes
employee contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
Restructuring bargaining units, **3:25**
Scope
criticism, Oakes test, **3:22**
guarantees and restrictions, **3:22**
prescribed by law, **3:22**
reasonable and demonstrable, **3:22**
Seasonal workers, bargaining units, **3:31**
Secondary picketing, private parties
dispute, **11:15**
Standing, **3:19 to 3:21**
Statutory interpretation, application to, **3:19**
Statutory sale of business provision, **3:27**
Strikes, right to, **3:25**
Strikes and picketing, right to, **3:25, 3:29**
Sunday-closing laws, **3:20**
Supplementary to judicial system, **3:19**
Suspension of union dues power, **3:25**
Under-inclusiveness, **3:25, 3:26, 3:28**
Unions
agency fees, **3:27**
right to join, **3:25**
Union security, **3:25, 3:27**
Wage freezes, **3:25**
Wage rollbacks, **3:25**

CANADIAN INDUSTRIAL RELATIONS BOARD

Certification procedures, **7:24**
 Duty to bargain, remedies, **10:40, 10:48**
 Employer, true, **6:6**
 Managers
 beyond mere direction/evaluation, **6:3**
 supervisors distinguished, **6:3**
 Membership evidence, **7:46**
 Other responsibilities, **5:16 to 5:19**
 Remedial certification, **10:49**
 Supervisors
 as employees, **6:3**
 bargaining units, **7:9**

CERTIFICATION

Accreditation compared, **15:8**
 Automatic, **2:13**
 Backdoor, **7:17**
 Bars to
 abuse of process, estoppel, **7:58**
 agriculture, seasonal workers, **3:25, 7:58**
 Alberta, **7:58, 7:59**
 board imposed, **7:58**
 build-up principle, **7:52, 7:53, 7:58, 7:59, 15:6**
 employer-dominated unions, **7:58**
 following failure, **7:58**
 human rights discrimination, **7:58**
 labour supply agreement, terms of, **5:5, 7:58**
 likelihood of unit increase in size, **7:58**
 Newfoundland and Labrador, **7:58, 7:59**
 Nova Scotia, **7:58, 7:59**
 other, **7:59**
 Other jurisdictions, **7:58**
 provincial variations, **7:58**
 Quebec, **7:58**
 raiding, British Columbia, **7:58**
 strike, **9:3**
 versus refusal to entertain, **7:58**
 withdrawal, **7:59**
 Card-based, **7:24, 7:52**
 Certificate spent, **7:17, 7:18**
 Construction industry, **15:6, 15:7**
 loss of, **15:6**
 Nova Scotia, **5:9**
 Quebec, **5:7**

CERTIFICATION—Cont'd

Date of application, significance, **7:24, 7:25, 7:53, 15:6**
 Disclosure, right of, **3:28**
 Discretion, **7:2**
 Dismiss, inherent jurisdiction to, **7:53**
 Displacement, **7:53, 9:3**
 Effect of
 exclusive authority, **7:60**
 new step into shoes of old, **7:60**
 old extinguished, **7:60**
 Fraud, **7:36, 7:46, 9:16**
 Health sector (Manitoba)
 appropriate decision-maker, **7:9**
 Interim, Canada, **7:61**
 Interim, Ontario, **7:61**
 Interim, Quebec, **7:61**
 Intervenors, **7:1**
 Jurisdictional claims, not appropriate, **7:1**
 Longshore industry, **7:23, 7:25**
 Meaning, **7:1**
 Multi-employer, British Columbia, **7:2**
 Multi-union, **7:2, 7:18**
 Notice, **7:24**
 Order, ongoing effect, **7:17**
 Organizing assistance, list of employees, **7:24**
 Procedure
 absent employees, **7:24, 7:52**
 administrative vs. adjudicative, **7:1**
 amendments, **7:24, 7:32, 7:57, 15:6**
 American, **7:24**
 Canada Labour Code criterion, **7:24**
 card-based, **7:24**
 contemporaneous representation applications, **7:55**
 date of application, relevance of, **7:24, 7:42**
 date of application, significance, **7:23, 7:25, 15:6**
 employee eligibility, **7:52, 7:53**
 filing and delivery times, relief from, **7:24, 7:55, 15:6**
 mandatory voting, Alberta, Nova Scotia and Ontario, **7:24, 7:25**
 Ontario, time to reconsider, **7:24**
 procedural fairness, **7:24, 15:6**
 proof of membership, **7:24**
 provincial legislation, **2:13**
 standing, **5:8**

CERTIFICATION—Cont'd

- Procedure—Cont'd
 - time limit, **7:24**
- Quebec, **5:7**
- Raids, **7:53, 9:3**
- Related employer application combined, **7:2**
- Remedial certification, **7:61 to 7:68, 10:49**
- Representation votes
 - see REPRESENTATION VOTES
- Responsibility, labour board duties, **5:5**
- Specified industries, **7:52**
- Standing, **5:8**
- Statutory just cause triggers, **10:3, 12:9**
- Timeliness
 - British Columbia, rules, **7:56**
 - Canada Labour Code, **7:57**
 - existence of incumbent, **7:54**
 - Manitoba, **7:58**
 - Ontario, rules, **7:55**
 - provincial variations, **7:58**
 - Quebec, rules, **7:58**
 - when conciliation left incomplete, **7:55**
- Time to apply for, **2:13**
- Trade union membership
 - see EVIDENCE OF MEMBERSHIP
- Trade union status, **6:7**
- Unfair labour practice, et seq., **7:62 to 7:69, 10:49**
 - construction industry, **7:62**
- Unsuccessful, Canada Labour Code rules, **7:58**
- Wage freeze during application, **2:13**
- Without vote
 - board's discretion, **7:61**
 - British Columbia, **7:63**
 - unfair labour practice, **7:62 to 7:69, 10:49**

CIVIL SERVANTS

- Charter rights, political activity, **3:33**
- Crown employees, exclusions, **6:15**
- Territorial government employees, exclusions, **3:6**

COLLECTIVE AGREEMENTS

- Adjustment plans, **12:14**
- Alberta
 - more than one, **12:2**
- Ancillary documents, **12:2**

COLLECTIVE AGREEMENTS—Cont'd

- Arbitration, extension of old agreement, **12:9**
- Authority to bind, **12:2**
- Automatic renewal
 - bargaining abandonment, **9:8**
 - perpetual collective agreement, **12:11**
 - validity, **12:11**
- Avoidance, contracting, **8:4**
- Bankruptcy, **2:2, 12:19**
- Binding, imposition of, **2:13**
- Bridging, statutory provisions, **12:11**
- Bridging and automatic renewal, **12:11**
- Cessation of
 - certification of new bargaining agent, **9:3**
 - termination of bargaining rights, **9:2**
- Civil actions, **12:19**
- Class action, **12:19**
- Clauses, voluntary interest arbitration, **11:28**
- Common law
 - contract doctrines, **12:2**
 - status, **5:1**
- Cornerstone of system, **12:2**
- Defined, **10:21, 10:23, 12:2**
- Displacing union, bound, **9:3**
- Dispute resolution, provincial variations, **2:13**
- Document in writing, **10:21**
- Duration
 - minimum, **12:9**
 - open periods, **12:9**
 - shortening or waiver of, **7:57, 9:2, 12:9, 12:10**
 - statutory freeze periods, **12:9**
- Early termination, **7:59, 12:10**
- Enforcement
 - see ENFORCEMENT OF COLLECTIVE AGREEMENTS
- Equitable principles, **4:10, 12:2**
- Estoppel, **4:10, 12:2**
- Expired, grievance procedure, **12:9**
- Filing obligation, **12:2**
- Final settlement by government clause, **4:16**
- Forced arbitration, **4:16**
- Formation, **4:10, 12:2**
- Freezes during bargaining, **10:13**
- Gap between old and new, **12:9**

COLLECTIVE AGREEMENTS—Cont'd

Good faith administration, implied, **12:14, 12:19**

Grievance arbitration
 access, **12:5**
 arbitrator, **12:6**
 concurrent jurisdiction, **12:19**
 damages, **12:19**
 during, **11:22**
 duty to bargain in good faith,
 Saskatchewan, **10:21, 12:14**
 human rights incorporated, **3:18, 12:5, 12:19**
 need for, **12:4**
 probationary employees, **3:18, 12:5**
 when inadequate, **12:5**

Human rights incorporated in, **3:18**

Insolvency, **8:2**

In writing, **12:2**

Joint ventures escape from, labour board powers, **8:6**

Jurisdiction and applicability, **12:2**

LOU me too agreement, **12:2**

Mandatory just cause discipline clause, **12:14**

Mandatory retirement provisions, case law, **3:19**

Mid-contract change
 British Columbia labour board, **11:29, 12:7, 12:14**
 ongoing consultation duty, **12:14**
 re-opener clause, **12:14**
 statutory allowances, **12:14**

Misrepresentation, **12:2**

Mistake, **12:2**

Modification, integration of businesses, **8:5**

Negotiated outside of Canada or a province, **12:2**

New owners and successor unions, legislation, provincial variations, **2:13**

Operation of provisions during freeze, **10:13**

Parties, representative entities, **12:2**

Provincially negotiated, federally recognized, **12:2**

Ratification, **11:25, 12:2**

Recognition clause, **12:13**

Rectification, **12:2**

Retroactivity, **12:9**

COLLECTIVE AGREEMENTS—Cont'd

Signing and ratification, **12:2**

Status, special legislation, **12:2**

Statutory arbitration, time-limits, **12:7**

Strikes and lockouts, **12:3**

Subcontracting clauses, unfair labour practices protection, **10:6**

Technological change, provisions, provincial variations, **2:13**

Tentative agreement, not a bar, **7:57**

Union security
 clause enforcement, **12:12**
 statutory clauses, **12:12**

Unlawful strikes
 remedy, **11:22**

Without ratification, **12:2**

COLLECTIVE BARGAINING

Certification, heart of process, **7:1**

Compulsory, provincial initiatives, **1:4**

Concurrent or exclusive jurisdiction
 divided opinions, **3:3**
 double aspect doctrine, **3:3**

Constitutional rights
 see CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Doctrine of civil conspiracy, **1:2**

Doctrine of promissory estoppel, application, **10:26**

Duties, good faith, **2:13**

Economic considerations
 subcontracting, **10:6**
 tempering union demands, **10:6**

Economic weapons, reluctance to interfere, **10:24**

Federal competence
 constitutionality, **3:2**
 works and undertakings, defined, **3:2**

Federal jurisdiction, integral and essential core activity, **3:4**

Free Trade Agreement, fear of decline from, **1:6**

Future of, **1:6**

History, **1:2**

Imposition, by labour board, related employers, **8:6**

Incidence of, **1:6**

Judicial discretion
 disguised as rules of construction, **3:2**
 legalistic approach, **2:2**

INDEX

COLLECTIVE BARGAINING—Cont'd

- Legislation
 - preamble, expression of intent, **5:4**
 - purpose of, **10:21**
- Legislative responsibility
 - constitutional basis, **3:1, 3:2**
 - divided activities, **3:4**
 - federal lands, **3:4**
 - judicial discretion, **3:1**
 - provincial involvement, **3:1**
 - summary of judicial principles, **3:4**
 - test, **3:4**
- Navigation and shipping
 - see NAVIGATION AND SHIPPING
- Negotiation vs. administration
 - duty of fair representation, **13:8**
 - exclusive agent throughout, **13:8**
- Non-accredited employer associations, **10:24**
- Northwest Territories
 - see NORTHWEST TERRITORIES
- Ontario, experimentation, **1:4**
- Ontario and British Columbia, additional purposes, **5:4**
- Pre-war, **5:1**
- Professionals, access to, **6:10**
- Quebec, administrative and legal, **5:4**
- Relationship improvement, **12:14**
- Transportation
 - see TRANSPORTATION
- Uniform legislation
 - provincial call for, 1946, **2:1**
 - provincial diversity, **2:1**
- Voluntary recognition agreements
 - generally, **7:51**
 - construction industry, **15:7**
- World War II, acceptance after, **1:4**
- Yukon
 - see YUKON

COMMON LAW

- Criminal conspiracy, **1:2**
- Customary international law, **3:18**
- Right to strike, **11:4**

COMPLAINTS

- Time-limits
 - interpretation of, **5:14**
 - lack of, **5:14**
 - strict adherence, settlement discouragement, **5:14**

COMPLAINTS—Cont'd

- Unsafe work, labour board jurisdiction, **5:17**

CONCILIATION

- See also ARBITRATION
- Board, no adjudication, judicial approach to, **4:15**
- Educational support, request for, **11:26, 11:29**
- Failure, **11:26**
- Federal, Minister of Labour, function of, **5:5**
- Federal policy, **10:21**
- Goal of, **11:26**
- Initiation, **11:26**
- Mediation
 - compared, **11:26**
 - mandatory, **11:26**
 - mid-contract, statutory provisions, **11:29**
- Ministerial reference, **11:26**
- Privatization, **2:5, 11:26**
- When left incomplete, **7:54**

CONFIDENTIAL CAPACITY

- Excluded employees, **6:5**

CONSPIRACY

- Civil
 - constitutional consistency, **11:15**
 - evolution of, **1:2**
 - repeal of doctrine, **1:2**
- Criminal, history of, **1:2**

CONSTITUTION

- Aeronautics, **3:10**
 - air ambulance, **3:10**
 - extraterritorial, **3:10**
- Banks, customs and excise, **3:15**
- Cable companies, **3:9, 3:16**
- Construction industry, **3:9, 3:16**
 - see Canadian Charter of Rights and Freedoms
- Department of National Defence, **3:16**
- Divisible/indivisible, **3:4, 3:8, 3:9**
- Emergencies, **3:11**
- Employment ultra vires federal government, **1:2**
- Extra-territorial aspects, **3:7**
- Federal declaratory power, **3:9, 3:12**
- Federal undertaking, integral to, **3:7**

CONSTITUTION—Cont'd

- Financial institutions, **3:15**
- Human rights law, **3:18**
 - BFOR, **3:18**
 - collective agreements, interpretation, **3:18**
 - compensatory purpose, **3:18**
 - employer and union, joint liability, **3:18**
 - quasi-constitutional dimension, **3:18**
 - remedies, **3:18**
 - standard of judicial review, **3:18**
 - summary dismissal test, **3:18**
- Judicature sections
 - access to courts, **3:17**
 - appointment of judges, **3:17**
 - British Columbia, **3:17**
 - core jurisdiction, **3:17**
 - intent of, **3:17**
 - policy vs. adjudication, **3:17**
 - power broadly conformable to s. 96, **3:17**
 - privative clauses
 - see PRIVATIVE CLAUSES
 - procedure, labour board vs. court, **3:17, 3:20**
 - two-stage analysis, **3:17**
- Jurisdiction, **3:2 to 3:4**
 - concurrent or exclusive, **3:3**
 - derivative, **3:2, 3:7, 3:8**
 - double aspect doctrine, **3:3**
 - integral and essential test, **3:4**
 - interjurisdiction immunity, **3:3**
 - primary, **3:2, 3:7, 3:8**
 - uncertainty, **3:2**
- Labour relations, shift to provinces, **1:1**
- Medical marijuana, **3:4**
- Navigation and shipping/Sea coast and inland fisheries, **3:7**
- Notice, **3:5**
- Paramountcy, **3:3, 3:4**
- Peace, order and good government
 - atomic energy, **3:12**
 - emergencies, **3:11**
 - matter of national concern, **3:11**
- Post office, **3:13**
 - drug store retail postal outlet, **3:2**
- Premature challenge, **3:32**
- Residual power
 - aeronautics, **3:10**
 - telecommunications, **3:9**

CONSTITUTION—Cont'd

- Sport organizations, **3:2, 6:6**
 - Standing, **3:31**
 - State immunity, **3:35**
 - Telecommunications, **3:9**
 - interactive webcasting online, **3:9**
 - online interactive petition platform, **3:9**
 - Trade Unions Act, change in attitude, **1:2**
 - Transportation, **3:8**
 - essential character, **3:8**
 - for own business, **3:8**
 - interprovincial, **3:8**
 - Written and unwritten norms, **3:20**
- CONSTRUCTION INDUSTRY**
- Abandonment of bargaining rights, **2:9, 9:8**
 - Accreditation, **15:8**
 - Aeronautics compared, **3:4**
 - Alberta, **15:3, 15:5, 15:6, 15:10**
 - Anti-corruption, measures, **3:26**
 - Application date, **4:9, 15:6**
 - Apprenticeship legislation, **7:16, 15:6**
 - Arbitrated relief where employer economic hardship, **2:9, 15:13**
 - Arbitration, final offer selection, **2:9**
 - Balance of power
 - accreditation, **15:11**
 - responses to correcting, **15:11**
 - strong unified unions vs. fragmented employers, **15:11**
 - Bargaining structure
 - Alberta, **15:14**
 - all-employee unit
 - Alberta, **15:3, 15:6**
 - British Columbia, **15:3, 15:6**
 - Saskatchewan, **15:6**
 - consolidation of units, **15:3**
 - co-ordinated bargaining, **15:11**
 - enabling employer-specific agreement modifications, **15:13**
 - industry-wide strikes and lockouts, **15:12, 15:13**
 - multi-trade
 - approach to, **15:11**
 - British Columbia, **15:14**
 - constitutionality, **3:27**
 - Quebec, **15:14**
 - other industries compared, **15:11**
 - project collective agreements, **15:16**
 - province-wide, effect of, **15:11**

CONSTRUCTION INDUSTRY—Cont'd

- Bargaining structure—Cont'd
 - public interest, **15:11**
 - unionized and non-unionized workers,
 - Quebec decree system, **15:11**
 - unit out of step, **15:11**
 - wider-area
 - conservative approach, **15:12**
 - realistic approach, **15:13**
 - trends, **15:15**
- Bargaining unit
 - all-employee unit, **15:3, 15:5, 15:6**
 - craft unit, **15:3, 15:5, 15:6**
 - displacement/raid, **7:4, 7:13, 7:53, 9:3, 15:6**
 - geographic areas, **15:6**
 - hybrid structure, appropriateness, **15:3, 15:6**
 - hybrid units for one employer
 - prohibited, **15:31, 15:37**
 - off-site, **15:6**
 - off-site employees, **15:5, 15:6**
 - sectoral determination, **15:14**
 - termination application, **9:2**
- Certification, **15:6, 15:7**
 - application date Saturday, **4:9, 15:6**
 - apprenticeship legislation, relevance, **15:3, 15:6**
 - build-up principle, **15:6**
 - designations, **15:6, 15:9**
 - filing and delivery times, relief from, **7:24, 7:55, 15:6**
 - loss of, **15:6**
 - non-construction industry bargaining rights, **15:6**
 - Nova Scotia, **5:9, 15:6**
 - Quebec, **5:7**
 - status disputes, **15:6**
 - timeliness, **7:54 to 7:58, 15:6**
 - versus jurisdictional disputes, **15:6**
- Collective bargaining, Charter rights, **3:27**
- Craft unionism, perpetuation of, **15:2**
- Craft unions, **15:37**
 - bargaining rights acquisition, **15:4, 15:5**
 - certification
 - Alberta, **15:3, 15:6**
 - Canada Labour Code, **15:6**
 - employers in specific geographic area, **15:6**
 - severance, **7:13 to 7:15**

CONSTRUCTION INDUSTRY—Cont'd

- Craft unions, **15:37—Cont'd**
 - consolidation of bargaining units, **15:3**
 - employers not normally in construction industry, **15:5**
 - geographic areas, reluctance to combine, **15:6**
 - local vs. province-wide, **15:6**
 - non-craft applicant, **15:6**
 - one union per craft, **15:3**
 - reluctance to certify, **15:5**
 - shared jurisdiction, **7:14, 15:3**
- Definition of construction, **15:5**
- Definition of non-construction employer, **2:9, 15:5**
- Dependent contractors, **6:2**
- Designations, purpose, **15:6, 15:9**
- Employers
 - identity of, **6:6, 15:10**
 - related, **15:10**
- Employers' organizations
 - accreditation
 - British Columbia, **15:8**
 - Canada Labour Code, **15:8**
 - double majority rule, **15:8**
 - Ontario, **15:8**
- Factors distinguishing from others, **15:2, 15:6**
- Fluctuating work force, build-up rare, **15:6**
- Geographic areas, **15:6**
- Grievance arbitration
 - OLRB, **12:17, 15:20**
- Hardship provisions, **15:15**
- Hiring hall
 - distinguishing feature, **15:30**
 - Quebec prohibitions, **2:11, 15:14**
 - referral restrictions, **2:9, 15:30**
- Industrial, commercial and institutional (ICI) sector
 - abandonment of bargaining rights, **9:8**
 - enabling employer-specific agreement modifications, **15:13**
- Jurisdiction
 - abuse of process, res judicata, estoppel, **15:20**
 - federal contract, **3:16**
 - interprovincial highways, **3:16**
 - maintenance vs. construction, **3:16**
 - out-of-province headquarters, **3:16**

CONSTRUCTION INDUSTRY—Cont'd

Jurisdiction—Cont'd
 test, **3:16, 15:6**
 wharf, **3:16**
 Jurisdictional disputes
 generally, **15:17 to 15:28**
 Alberta, **15:18**
 British Columbia, **15:18**
 Canada board, **15:17**
 Canadian Plan, **15:17**
 criteria, et seq., **15:21**
 area practice, **15:21, 15:26**
 balance of criteria, **15:24**
 board establishment of, **15:21**
 collective bargaining relationship,
 15:22
 composite crews, **15:21, 15:23**
 economy and efficiency, **15:24**
 employer's practice, **15:21, 15:25**
 other factors, **15:21, 15:24**
 other relevant considerations, **15:26**
 safety factor, **15:23, 15:27**
 skill and training, **15:23**
 trade agreement, **15:26**
 where area practice and employer's
 practice conflict, **15:26**
 damages awarded, **15:28**
 delay, **15:20**
 essence of, **15:17**
 formwork, **2:9**
 interim order, **15:28**
 mark-up meeting, importance, **15:20**
 New Brunswick, **15:18**
 production requests, **15:18**
 remedies, **15:28**
 statutes
 addressing of, **15:18**
 starting point, **15:17**
 statutes vs. grievance procedures
 areas of conflict, **15:20**
 meaning of agent and assign, **15:20**
 unequivocal interest in the work,
 15:20
 statutes vs. private mechanisms
 British Columbia, **15:19**
 intervention theories, **15:19**
 Ontario, **15:19, 15:20**
 vs. health and safety issues, **5:17**
 Key person analysis, **8:2, 15:10**
 Local union autonomy, **2:9**

CONSTRUCTION INDUSTRY—Cont'd

Loss of bargaining rights, abandonment,
9:8
 Maintenance compared, **15:5**
 Managerial exclusion, **6:3, 15:6**
 Manufacturing compared, **15:11**
 Membership evidence, **15:6**
 Multi-trade
 British Columbia, **15:14**
 Nature of, mobility and specialization,
15:11
 No employees in bargaining unit, termina-
 tion of agent, **9:6**
 Non-affiliation clauses, **15:29 to 15:37**
 Non-construction employer, **2:9, 3:25,**
15:5
 Ontario
 abandonment of bargaining rights, **2:9**
 burden on union to prove support, **15:6**
 common employer-delay, **15:10**
 displacement application, **15:6**
 division of industry sectors, **15:6**
 employee eligibility on application
 date, **15:6**
 extension of bargaining rights, **2:9,**
 3:20, 15:13
 grievance jurisdiction, **12:17**
 hiring hall restrictions, **2:9**
 industrial, commercial and institutional
 (ICI) sector
 bargaining rights by ministerial
 designation, **15:6, 15:9**
 board power to respond to illegal
 agreements, **15:6**
 determination of, **15:6**
 province-wide bargaining mandated,
 15:6
 voluntary recognition agreements,
 15:7
 jurisdictional disputes, **15:18**
 non-construction industry employer,
 2:9, 15:5
 province-wide certification
 affiliated bargaining agent, **15:6**
 employee bargaining agency, **15:6**
 non-ICI voluntarily recognized units
 compared, **15:6**
 support for, **15:6**
 related employer, **8:6, 15:10**
 defined to exclude relationship by
 blood, etc., **2:9, 8:2, 15:10**

CONSTRUCTION INDUSTRY—Cont'd

- Ontario—Cont'd
 - related employer, **8:6, 15:10**—Cont'd
 - key employee defined, **2:9, 15:10**
 - relevant employees for support of unit, **15:6**
 - representation vote
 - entitlement to vote, **15:6**
 - sectors, **15:6**
 - Toronto area residential sector rules, **15:6**
- Penalizing official without just cause, **2:9**
- Pre-hire (Nicholls-Radtke) principle, **15:7**
- Procedures, expedition, **15:6**
- Project assessment procedures, **2:9, 15:6**
- Quebec
 - multi-trade bargaining, **15:14**
 - constitutionality, **3:27**
 - freedom not to associate, **3:27**
 - precarious work needs, **3:27**
- Related employers, **6:6, 8:6, 15:10**
- Sale of business
 - transfer of
 - automatic, save for consequential issues, **8:2**
 - fact driven, **8:2**
 - going concern, **15:10**
 - investment by key operator, **15:10**
 - key operator's assets and licenses, **15:10**
 - key person, **15:10**
 - skill and reputation, **8:2**
- Saskatchewan, province-wide bargaining, **2:12, 15:6, 15:9, 15:13**
- Sectors, **15:6**
- Single project agreements, **2:12**
- Special projects, **15:16**
- State intervention in bargaining
 - Manitoba, **15:15**
 - Quebec, **15:15**
- Statutes vs. grievance procedures
 - meaning of employer, **15:20**
 - standing under, **15:20**
- Strikes
 - entire trade division, **15:6**
- Subcontracts, related employers, **15:10**
- Successor rights
 - bankruptcy, effect of, **8:2, 15:10**
 - common control and direction compared, **8:6, 15:10**

CONSTRUCTION INDUSTRY—Cont'd

- Successor rights—Cont'd
 - common statutory protection, **8:2, 15:10**
 - fact driven, **8:2**
 - importance due to different shelf companies, **8:2, 15:10**
 - key person test, **8:2, 15:10**
 - subcontracting, distinguished, **8:4, 15:10**
- Technological advances, **15:26**
- Trusteeship, **14:2**
- Unfair labour practice certification
 - Ontario, not available, **15:6**
- Union security
 - clauses to ensure, **15:29**
 - constitutionality of multi-trade bargaining, **3:27**
 - hiring hall, role of, **15:30**
 - industry system of subcontracting, **15:29**
 - legality of
 - case law, **15:34**
 - statutory provisions, **15:34**
 - non-affiliation clauses
 - see NON-AFFILIATION CLAUSES
 - self-help vs. arbitration, **15:36**
 - s. 70 of British Columbia Labour Relations Code, **15:35**
 - subcontracting clauses
 - bargaining unit protected, **15:32**
 - contract interpretation, **15:32**
 - interpretation, law and fact, **15:32**
 - non-affiliation clauses, **15:31**
- Voluntary recognition agreements
 - clean hands, **7:52, 9:5, 15:7**
 - cross-over clauses, **15:7**
 - pre-hire agreements, **15:7**
 - requirements, **7:52, 15:7**
 - revocation of bargaining agent, **15:7**
 - show me agreements, **15:8**
 - statutory references, **15:7**

COURTS

- Labour Court, life of, **1:4**

CRAFT UNIONS

- See also BARGAINING UNITS;
CONSTRUCTION INDUSTRY
- Apprenticeship/training legislation, **7:12**
- Bias for, carve-out applications, **15:3**

CRAFT UNIONS—Cont'd

- Canada Labour Code, lack of specific provision, **15:3**
- Carve outs/severance, **7:13, 7:16**
- Defined
 - Canada Labour Board, **15:3**
 - two formulae, **15:3**
- Definition, historical, **15:2**
- Dependence on, hiring hall system, **15:2**
- Industrial unions, difference, **15:2**
- Injunctive relief, **10:32, 11:9, 11:12, 11:16, 11:21, 12:19**
- Jurisdiction, **10:32, 11:9, 11:12, 11:16, 11:21, 12:19**
- Mass production methods, conflict with, **15:2**
- Non-craft replacing craft union, **15:3**
- One union per craft, **15:3**
- Ontario and British Columbia compared, **15:3**
- Ontario formula, **15:3**
- Shared jurisdiction, **7:14, 15:3**
- Statutory provisions, union must pertain to skill or craft, **15:3**
- Trade union pertaining to more than one craft, **15:3**

CROWN EMPLOYEES

- Agricultural workers, **2:9, 6:12**
- Employees, excluded as, **6:15**
- Essential services, **2:9**
- Whistle-blowing, **2:9**

CROWN IMMUNITY

- Unfair labour practice proceedings, **6:15**

DAMAGES

- Against individual employees, **10:42**
- Back-pay, **10:42**
- Bargaining in bad faith, **10:30**
- Canadian Charter of Rights and Freedoms, **3:20, 3:25**
- Effective, **10:42**
- Estimated, paid in trust, **10:42**
- Human rights damages, **3:18**
- Legal fees, **10:42**
- Mental distress, **10:42**
- Mitigation, **10:42**
- Non-monetary losses, **10:42**
- Prospective losses, **10:42**
- Punitive, **10:42, 12:19**
- Union liability, **10:42**

DAMAGES—Cont'd

- Unlawful strike, compensatory vs. punitive, **11:22**

DECERTIFICATION

- See also TERMINATION OF BARGAINING RIGHTS
- Abandonment, et seq., **9:8**
 - onus, **9:8**
- Authorization, **9:2**
- Bars to
 - bridged collective agreements, **9:2**
 - Canada Labour Code, s. 39(2), **9:2**
 - timeliness, **9:2**
- Change of mind, **9:2**
- Charter rights, **3:27**
- Clean hands, **9:8**
- Concurrent first contract claim, **10:47**
- Displacement, **7:53, 9:3**
- Employer influence, **9:2**
- Employer neutrality, **9:2**
- Entitlement to vote, **9:2**
- Estoppel, **9:8**
- Expedited vote, **9:2**
- Filing and delivery times, relief from, **9:2**
- Interference with vote, third party, **9:2**
- Laches, **9:8**
- Lack of support, voluntariness, **9:2, 9:15**
- Manitoba, **9:2**
- Master agreements, **9:2**
- Multiple employers, **9:2**
- New Brunswick, **9:18**
- No employees in unit, **9:6**
- Notice of procedures to employees, **2:9, 9:2**
- Partial decertifications, British Columbia, **7:4, 9:2**
- Power of board, **2:1**
- Procedures, **2:13**
- Quebec, **9:3, 9:8**
- Raids, **7:53, 9:3**
- Secrecy of signatories, **9:2**
- Time bars, **9:2**
- Unions, grounds for, abandonment of bargaining rights, **9:8**

DEPENDENT CONTRACTORS

- Appropriate bargaining unit, **6:2, 7:5, 7:7**
- Artist and performing contractors, **2:2**
- Competition Act, **14:36**
- Construction industry, **6:2**

DEPENDENT CONTRACTORS

—Cont'd

Economic dependence, degree of, **6:2**

Status

case law, **6:2**

casting directors, **6:2**

contractors and employers, **6:2**

dependence vs. independence, **6:2**

employees, distinction, **6:2**

employing others, **6:2**

factors, **6:2**

food delivery couriers, **6:2**

helpers, use of, **6:2**

incorporation, **6:2**

indicators, **6:2**

labour and product markets, distinction, **6:2**

labour only subcontract, **6:2**

newspaper delivery, **6:2**

Ontario labour board, **6:2**

other countries compared, **6:2**

“salts,” **6:2**

short duration, **6:2**

substance and form, **6:2**

taxicab lease operators, **6:2**

taxicab owner-drivers, **6:2**

DISABLED PERSONS

See EQUAL OPPORTUNITY

DISCIPLINE

Mandatory collective agreement clause, **12:14**

DISCRIMINATION

Age and sex, **13:5, 13:8**

Areas of, **13:5**

Defined, **3:18**

Disability, **13:5**

Duty to accommodate, **3:18**

Human rights law, **3:18**

Invidious intention, **13:4, 13:5**

Non-union members security denial, **13:5**

Productive settlement balanced, **13:5**

DISPUTES

See STRIKES; LOCKOUTS

DOMESTICS

Charter rights, exclusions, **3:26**

Employees, status considered, **6:11**

DUES

Deduction of

contribution to charity, **2:2**

requirement, **2:2**

DUTY OF FAIR REPRESENTATION

Alberta, **13:1, 13:2, 13:12**

All employees, union or not, **13:2**

Anonymization of complainant, **13:18**

Application of the duty, **13:2**

Arbitrariness

defined, **13:6**

agricultural workers, **2:9**

delay, **13:6, 13:8**

duty to accommodate, **13:6**

failure of permission to work at request of employer, **13:6**

failure to communicate, **13:6**

failure to investigate, **13:6**

grievance procedure

carelessness, **13:6**

failure, **13:6**

gross negligence, **13:6 to 13:8**

membership meeting vote inherently arbitrary or not, **13:6, 13:8**

mistake, **13:6, 13:7**

negligent or incompetent conduct, **13:6**

no microscopic examination, **13:6**

no second guessing, **13:8**

not an appeal, **13:8**

not perfection, **13:6**

perfunctory conduct, **13:6**

ratification votes, **13:7**

rational decision-making, **13:9**

rational process of decision-making, **13:8**

seniority grievance, **13:6**

termination of picket-line crossers' employment, **13:6**

Bad faith

discrimination, **13:4**

grievance processing, **13:4**

misrepresentation, **13:4**

nature of, **13:4**

non-members barred from ratification votes, **13:4**

British Columbia, **13:1, 13:3**

Canada and United States compared, differences explained, **13:1**

Canada Labour Code

guarantee of objectivity, **13:5**

DUTY OF FAIR REPRESENTATION**—Cont'd**

Canada Labour Code—Cont'd
 three-fold test, **13:1**
 two components, **13:3**
 Carelessness, degree of, **13:7**
 Civil complaints, **13:1, 13:2**
 Closure agreements, **13:2**
 Coercion, **13:6, 13:8**
 Collective agreement, rights under, **13:2**
 Collective vs. individual rights, **13:8**
 Common law duty, **13:1, 13:2**
 Communication, **13:6**
 Complaints, remedies, **13:18**
 Conflicts of interest, **13:5**
 Contract administration, **13:8**
 Contract negotiation
 accrued rights, **13:9**
 differences from settlement ratified,
 13:5, 13:9
 difficult choices between employees'
 interests, **13:9**
 large scale grievance resolutions, **13:8**
 objective negotiation test, **13:9**
 realistic choices, **13:9**
 reasons for non-intervention, **13:9**
 statutory obligations, **13:9**
 temporary benefit of one group, **13:9**
 trade-offs, **13:9**
 Critical employee interests, **13:6, 13:8**
 Deferral, **13:15**
 Difficult choices between employee
 interests, **13:5, 13:9**
 Discharge grievances, **13:7, 13:8**
 Disclosure, **13:6, 13:8**
 Discretion, **13:6**
 Discrimination
 see DISCRIMINATION
 Dispensing with oral hearings, **13:16**
 Duties and responsibilities, unions and
 employees, **13:3, 13:6**
 Employee
 consent not required, **13:6**
 contract negotiation vs. administration,
 13:9
 credibility, **13:6**
 failure to co-operate, **13:6**
 not member of unit, **13:2**
 retirees, **13:2**
 right to grievance arbitration, **13:8**

DUTY OF FAIR REPRESENTATION**—Cont'd**

Employee—Cont'd
 threats, **13:6, 13:8**
 Employee exhaustion of procedures
 not obligated, **13:12**
 United States, **13:12**
 Employer as party to complaint and rem-
 edy, **13:14**
 Employer associations, **13:1, 13:19**
 Essential character of dispute, **13:2**
 Events prior to certification, **13:2**
 Exhaust internal union remedies, **10:33,**
 13:12
 Expiry, **13:2**
 Failure of, termination of bargaining
 rights, **9:15**
 Failure to accept a fair and reasonable
 settlement proposal, **13:8, 13:16**
 Failure to co-operate, grievor, **13:6**
 Fair referral to employment
 alleged violation of union's constitu-
 tion, **13:10**
 board's role, **13:10**
 pensioners, **13:10**
 remedies, **13:10, 13:19**
 statutory provisions, **13:10**
 test, **13:10**
 Filing preconditions, **13:16**
 For displacing trade union, **9:3**
 Global grievance settlement, **13:8**
 Grievances
 see GRIEVANCES
 History, **13:1**
 Human rights, **13:2, 13:8**
 Judicial review, **13:6, 13:8**
 Last chance agreements, **13:6**
 Legal advice, **13:6, 13:8**
 Limitation period mandatory, Quebec,
 13:11
 Majority vote against filing a grievance,
 13:6
 Manitoba, **13:1, 13:4, 13:6, 13:8**
 Mistake, **13:7**
 Negligence
 see NEGLIGENCE
 Negotiation of mid-term amendments,
 13:9
 Not a catch-all provision, **13:2**
 Not an appeal, **13:8**

DUTY OF FAIR REPRESENTATION

—Cont'd

Nova Scotia, **13:1**
 Ontario, **13:1**
 Onus, **13:13**
 Other fora, **13:2**
 Pension plan, **13:2**
 Pleading, required, **13:16**
 Portability of seniority, **13:2**
 Pre-statutory requirements, **13:1**
 Prima facie case required, **13:8**
 Proactive approach, human rights, health and safety, disability issues, **13:6, 13:8**
 Probationary employees, **12:5, 13:6, 13:8**
 Procedural issues
 deferral, **13:15**
 delay/prematurity, **13:11**
 employer as a party, **13:14**
 exhaustion of internal union procedures, **3:12**
 filing preconditions and dispensing with oral hearings, **13:16**
 naming union officials, **13:17**
 not identifying parties, **13:18**
 onus, **13:13**
 open court principle, **13:18**
 Quebec, **13:6, 13:7, 13:11, 13:19**
 Ratification votes, **13:2, 13:7, 13:9**
 Remaining neutral, **13:5**
 Remedy, et seq., **13:19**
 apology, **13:19**
 apportionment, **13:19**
 bilingual arbitrator, **13:19**
 choice and payment of counsel, **13:19**
 cooperation directed, **13:19**
 declaration, **13:19**
 deferral to arbitration, **13:15**
 financial liability limitations, Alberta, **10:42**
 general and moral damages, **13:19**
 legal fees at labour board, **13:19**
 legal opinion, **13:19**
 monetary (and limitations), **13:19**
 objective, **13:19**
 posting, **13:19**
 quantification actual harm, **13:19**
 referral to an independent arbitrator, **3:19**
 referral to arbitration, **13:19**

DUTY OF FAIR REPRESENTATION

—Cont'd

Remedy, et seq., **13:19**—Cont'd
 referral to independent investigator, **10:24, 13:19**
 standing granted to bring a successor rights application, **13:19**
 structural, **13:19**
 waiver of time limits, **10:46, 13:19**
 Sale of business, **13:2, 13:6**
 Scope of duty, procedural and substantive, **13:2, 13:3**
 Second-guessing negotiators, **13:9**
 Self-represented, challenges of, **13:16**
 Sexual harassment, **13:6**
 by fellow employees, **13:5**
 Situations when used, **13:1**
 Solicitor/client privilege, **13:6, 13:8**
 Specific, three-fold, **13:1**
 Standing, **13:2**
 Status of exclusive bargaining agent, **13:1**
 Statutory v. implied, **13:1**
 Summary dismissal, **13:8**
 Theories justifying, **13:1**
 Union institutional bargaining rights, **13:9**
 Unions, internal workings not affected, **13:2, 14:27**
 Union security clause prohibitions, overlap, **14:6**

DUTY TO BARGAIN

Alteration of position, **10:24**
 Alternate dispute resolution process, **10:21**
 Arrogant attitudes, **10:25**
 Authority, **10:24**
 Availability, **10:24**
 Awaiting third party review, **10:23, 10:25**
 Away from bargaining table
 advising minister of an impasse, **11:26**
 communications with employees, **10:27**
 communications with employers, **3:28, 10:24**
 strike or lockout before impasse, **10:27**
 totality of circumstances, **10:27**
 Bad faith, imposed collective agreement, **10:24, 10:40, 10:47**
 Bargaining agent
 maintenance of support, **10:27**
 reinforcing employer's recognition of, **10:24**

DUTY TO BARGAIN—Cont'd

Bargaining protocol, failure to abide by, **10:25**
 Boulwarism, **10:24**
 Bridging vs renewal clauses, **12:11**
 Canada Labour Code, meaning, **10:21**
 Change of agreed upon items, **10:24**
 Compulsory interest arbitration process, **10:21**
 Co-ordinated bargaining structure, **10:23**
 Direct bargaining with employees, **10:4, 10:9, 10:24, 10:27**
 Disclosure
 American experience, **10:26**
 clarity required, **10:26**
 de facto decision, **10:26**
 limits of, **10:26**
 privacy issues, **10:26**
 purpose of, **10:26**
 redaction of sensitive commercial information, **10:26**
 timely, **10:26**
 unsolicited, **10:26**
 Displacement, continue to, **10:24, 11:4**
 Due diligence, **10:26**
 Explanation of positions, **10:25**
 Exploratory talks, **10:25**
 Failure to meet at all, **10:24**
 Failure to ratify, **10:25**
 Failure to recommend, **10:39**
 Fear of legalized negotiations, **10:22**
 Final / last offer votes, **10:21, 11:27**
 Good faith and reasonable efforts, **10:21**
 Government employer
 budgetary framework, holding to, **4:9, 10:25**
 pay equity, including cost impact of, **4:9, 10:25**
 Government funding, **10:25**
 Government resolution proposal, **10:23**
 Hard vs. inflammatory bargaining, **10:24**
 History, **10:22**
 Illegal per se, **10:23 to 10:25**
 Industry-wide bargaining, **10:24**
 Interest arbitration, continues to, **10:24**
 Late proposals, **10:24**
 Media strategy, **10:24, 10:27**
 Misrepresentation, **10:25**
 Negotiations
 Canada vs. United States, **10:23**

DUTY TO BARGAIN—Cont'd

Negotiations—Cont'd
 hard vs. surface bargaining, **10:24**
 subject matter, United States compared, **10:23**
 Negotiators with authority and time, **10:25**
 No employees in bargaining unit, continue to, **10:23**
 Non-negotiable proposals, **10:24**
 No notice given, **10:21, 10:25, 11:2**
 Notice, **10:21, 10:25, 11:2**
 Novel arguments, **10:25**
 Observers, right to, **10:4**
 Out-of-scope positions, **10:23**
 Premature impasse declared, **10:23, 10:27**
 Proposals made in bad faith, **10:24**
 Publishing proposals, **10:27**
 Rational discussion and reasonable efforts, **10:25**
 Reasonable efforts, **10:21, 10:23, 10:25**
 Reasonableness of proposals, **10:24**
 Refusal to abide by last offer vote, **10:24**
 Refusal to discuss cost of a proposal, **10:24**
 Refusal to execute agreement, **10:24**
 Refusal to meet, **10:24, 10:25**
 Reluctance to interfere, **10:24**
 Remedy
 imposition of collective agreement (provision), **10:24, 10:47**
 Interim order, **10:39**
 loss of opportunity to bargain, **10:42**
 ministerial consent, where required, **10:30**
 Subject matter of negotiations, **10:23**
 Sudden change of position, **10:24**
 Temporal limits, **10:21**
 Threat of plant closure, **10:24**
 Unilateral change to bargaining structure, **10:24**
 Unreasonable conditions, **10:25**
 Wage reopener negotiations, **10:21**
 Work jurisdiction, **10:23**

EMPLOYEES

Agricultural workers, **2:9, 3:25, 6:12**
 Artist and performing contractors, **2:2**
 Athletes, rugby, **6:6**
 Bargaining unit membership, prime function test, **6:4, 7:53**

INDEX

EMPLOYEES—Cont'd

- British Columbia, **7:22**
- Business, vested rights in, **8:1**
- Casual, **7:22**
- Cessation as, strike or lockout, **2:10**
- Domestics, status, **6:11**
- Double date principle, **4:9, 7:52**
- Elected union officials, **6:6**
- Eligibility for union membership, provincial variations, **2:13**
- Evidence
 - see EVIDENCE OF MEMBERSHIP
- Exclusions
 - Canada board, **6:3**
 - confidential capacity
 - British Columbia, **6:5**
 - factors warranting, **6:5**
 - incidental vs. material, **6:5**
 - nature of information, **6:5**
 - Ontario, balance of interests, **6:5**
 - police and firefighters, **6:13**
 - serious issue, **6:5**
 - use of information, **6:5**
 - Crown employees, **6:15**
 - dependent contractors
 - see DEPENDENT CONTRACTORS
 - farmers and fishermen, **6:12**
 - horticultural employees, **6:12**
 - managers
 - see MANAGERS
 - professionals, **6:10**
 - Quebec, **6:3**
 - teachers, special provisions, **6:14**
- Film industry, **4:9, 7:52**
- Firefighters, special provisions, **6:13**
- Freedom of speech, **3:28**
- Full- vs. part-time, craft units, **7:13**
- Graduate students, **6:6**
- Horticultural exclusion, **6:12**
- Identity of, subcontracting, **6:6**
- Individual, sanctions, **11:22**
- Intermingled
 - labour board discretion, **8:5**
 - subsequent to closure, **10:6**
 - two unionized groups, **8:5**
- Lists of employees, right to, **7:24**
- Partners, contrasted, **6:6**
- Performing arts, **6:6**
- Police, special provisions, **6:13**
- Post-doctoral fellows, **6:6**

EMPLOYEES—Cont'd

- Prisoners as, **6:15**
- Probationary, grievance arbitration, **12:5**
- Public office holder, **6:6**
- Related employers
 - declarations, unwanted unions, **8:6**
 - key employee defined by statute, **2:9, 8:6, 15:10**
 - labour board precluded from considering relationship by blood, etc., **2:9, 8:2, 15:10**
- Retirees, versus, **4:19**
- Rights, union security provisions, **14:6**
- “Salts,” **6:6**
- Seasonal, **7:22**
- Security guards, potential conflicts, **6:8**
- Sexual harassment
 - see SEXUAL HARASSMENT
- Striking, status of, **11:24**
- Subcontractors, successors, **8:4**
- Supervisory employees, covered, **6:3**
- Trade union organizers, **6:6**
- Union duties, fair representation, **2:2**

EMPLOYER PROPERTY RIGHTS

- Agricultural workers, **2:9**
- Balance of interests, strangers' access, **10:8**
- Canada Labour Code, employees' freedoms balanced, **10:8**
- Conditions, aimed at union officials, **10:8**
- Employee access to information, less opportunity test, **10:8**
- Lists of employees, right to, **7:24**
- No-solicitation rule
 - past non-work communications, **10:8**
 - proof of harm to efficiency, **10:8**
- Quebec, administrative approach, **10:8**
- Remote locations, **10:8**
- Working hours, lunch breaks and rest periods, **10:8**
- Workplace
 - employees vs. non-employee organizers, **10:8**
 - place of production vs. forum for union organizing, **10:8**

EMPLOYERS

- Accreditation, **15:8**
- Bargaining structures, **10:24, 15:11 to 15:16**
- Certification of two or more, **7:2**

EMPLOYERS—Cont'd

Cessation of, bargaining rights on, **9:13**
 Change of, bargaining rights on, **9:12**
 Construction industry, **6:6**
 Employee fair representation complaints, party to, **13:14**
 Freedom of speech
 see FREEDOM OF SPEECH/
 EXPRESSION
 Identity of
 bankrupt subcontractor, **6:6**
 common employer declaration, **6:6, 8:4, 8:6**
 construction industry, **6:6**
 contracted work, **4:10, 6:6, 8:4, 8:6**
 interview and hiring, **6:6**
 labour supplier, **6:6**
 payment vs. control, **6:6**
 related employer, **4:10, 6:6, 8:4**
 temporary agency, **6:6**
 Interference, termination of bargaining rights application, **9:2**
 Membership evidence
 see EVIDENCE OF MEMBERSHIP
 New division, **8:6**
 Non-construction industry employers, **2:9, 15:5**
 Organizations, accreditation
 British Columbia, **15:8**
 Canada Labour Code, **15:8**
 meaning, **15:8**
 Ontario, **15:8**
 Related
 construction industry, **8:6, 15:10**
 declaration by board
 considerations, **8:6**
 delay, **8:6**
 employer applicants, **8:6**
 franchises, **8:6**
 liability, **8:6**
 limited scope declaration, **6:6, 8:4, 8:6, 8:7**
 mandatory, Alberta, **6:6, 8:6, 15:10**
 material facts, obligation to adduce, **6:6, 8:6**
 nature of, **8:6**
 onus, **8:6**
 preserve bargaining rights, not extend, **8:6**
 purpose, **8:6**

EMPLOYERS—Cont'd

Related—Cont'd
 declaration by board—Cont'd
 retroactive, **8:6**
 declaration by board erosion, actual or real potential, **8:6**
 deferral to arbitration, **6:3, 8:6**
 delay, **8:6**
 discretion, labour board, **6:6, 8:6, 10:7**
 effective labour relations test, **8:6**
 franchises, **8:6**
 joint ventures escape from collective agreements, powers of labour boards, **8:6**
 key employee defined by statute, **2:9, 8:6, 15:10**
 labour board discretion, **8:6**
 labour board power to find, **8:6**
 labour board precluded from considering relationship by blood, etc., **2:9, 8:2, 15:10**
 liability, **8:7**
 merger, **8:6**
 motives, **8:6**
 piercing corporate veil, **8:6**
 purpose, **8:6**
 Quebec, **8:6**
 remedies, **8:6, 8:7**
 reorganization, **6:6**
 strike replacement implications, **8:6**
 Restrictions
 not a “gag” order, **10:9**
 Standing, **7:1, 7:48, 7:52**
 Subcontract, legitimate defined, **6:6, 8:4**
 Subcontractors, successors, **8:4, 8:6**
 Successors
 bargaining process, **8:1**
 freeze, **10:13**
 liability for predecessor's breaches, **8:7**
 True employer, **6:6**

EMPLOYMENT STANDARDS

Arbitral enforcement, **3:18**

ENFORCEMENT

Contempt, **10:53**
 General considerations, **5:15, 10:53**
 Offences
 false and misleading information, **2:4**

ENFORCEMENT OF COLLECTIVE AGREEMENTS

- Arbitration, **12:15**
- Arbitrators and labour boards
 - appropriate forum, **12:12, 12:19**
 - concurrent jurisdiction, **12:19**
 - exclusive jurisdiction, **12:19**
 - general heart of process, **12:16**
 - good faith administration, implied, **12:19**
 - related statutes, **12:19**
 - remedial powers, **12:19**
- Bankruptcy, **8:2, 12:19**
- Civil action
 - court jurisdiction: Weber v Ontario Hydro, **12:19**
 - death of individual rights, **12:19**
 - defamation, **12:19**
 - discrimination, **12:19**
 - independent duty of care, **12:19**
 - inherent remedial jurisdiction, **12:18, 12:19**
 - insured benefits, **12:19**
 - pay in lieu of notice, **12:19**
 - strain on labour policy, **12:19**
 - tort, **12:19**
 - unfair competition, **12:19**
 - unpaid wages, **12:19**
 - where no mandatory arbitration, **12:19**
 - workplace injury, **12:19**
- Federal board review, after arbitration, **12:17**
- Human rights compliance, **3:18, 12:5, 12:14, 12:19**
- Injunctions, **11:9, 11:21, 12:18**
- Insolvency, **8:2**
- Original jurisdiction of labour board, **12:17**
- Prosecutions, **12:18**
- Residual judicial discretion, **12:19**

EQUALITY

- Mandatory retirement, **3:30**

EQUAL OPPORTUNITY

- Existence of barriers, **2:2**

ESSENTIAL SERVICES

- Agreements, **2:9**
- Alberta, **11:30**
- British Columbia board, **11:30**
- Canada board, **11:30**

ESSENTIAL SERVICES—Cont'd

- Canadian Charter of Rights and Freedoms, **3:25, 11:30**
- Common site, **11:30**
- Definition
 - immediate and serious danger, **11:30**
- Employees outside the bargaining unit, **11:30**
- Maintenance of, **11:30**
- New Brunswick, **11:30**
- Newfoundland and Labrador, **11:30**
- Ontario, **11:30**
- Quebec, **11:30**
- Saskatchewan, **11:30**

EVIDENCE OF MEMBERSHIP

- Alberta, **7:25, 7:44**
- Application form, signing, **7:25**
- Arrears, dues, **7:44**
- Barometer of support, **7:25**
- British Columbia, **7:25, 7:42**
- Confidentiality to be maintained, **3:28, 5:12, 7:63**
- Electronic, **7:25, 7:39, 7:42, 7:46, 15:6**
- Employee opposition
 - Alberta, card signing, **7:44**
 - change of heart, relevance, **7:26**
 - confidentiality of, **7:26**
 - federal, fee payment, **7:46**
 - natural justice, **7:26**
 - New Brunswick, **7:26**
 - New Brunswick, intimidation, **7:48**
 - Newfoundland and Labrador, oral evidence, **7:47**
 - Nova Scotia, repayment of employee loans, **7:43**
 - Ontario
 - card date, **5:12, 10:49**
 - sister local, **7:30**
 - representation at hearing, **7:26**
 - Saskatchewan, card signing, **7:45**
 - timing, **7:26**
 - weight of, **7:26**
- Employer opposition
 - British Columbia
 - fraud and intimidation, **7:42**
 - procedures, **7:42**
 - New Brunswick, intimidation, **7:26, 7:48**
 - Ontario
 - card date, **7:27**

EVIDENCE OF MEMBERSHIP**—Cont'd**

Employer opposition—Cont'd

Ontario—Cont'd

cards, collection of, 7:28

certainty of employee intention, 7:35

curable deficiencies, 5:12, 7:24,
7:25, 7:27, 7:32

essential mistake, 7:34

fees, loan of, 7:28

inquiries by board, 7:39

intimidation and misrepresentation,
7:36, 7:53

irregularities in form, 7:31

management support, 7:37

non-payment of fees, 7:28

rules of evidence, 7:27

signature missing, 7:29

tainting, 7:38

time of card signing, 5:12, 7:32

union improperly named, 7:30

union's constitution, 7:33

Employer standing, 7:43

Federal, 7:43

Fraud, 7:36, 7:46, 9:16

High standards, 7:27

Integrity of, 7:43

Labour board procedures, 7:24

Manitoba, 7:50

Misrepresentation, 7:36, 7:44

New Brunswick, 7:48

Newfoundland and Labrador, 7:47

Nova Scotia, 7:43

Overview, 7:25

Prince Edward Island, 7:49

Proof of, 7:25

Quebec, 7:50

Revocation, 7:26

Saskatchewan, 7:45

Sister local, 7:30

Two-tiered initiation fee, 7:36

Validity (federal), 7:46

Versus pledge/authorization, 7:35, 7:47

FARMERS

Employees, exclusions, 3:25, 6:12

FEDERAL WORKS

Core activity, integral and essential, 3:4

Defined, 3:2

Requirements, 3:8

FEDERAL WORKS—Cont'd

Works vs. undertakings, 3:8

FILINGS

See UNIONS

FINAL-OFFER VOTES

See VOTING, final offer

FINANCIAL INSTITUTIONS

Jurisdiction, constitutional basis, 3:15

FIREFIGHTERSConstitutionality of changes to interest
arbitration, Quebec, 2:11, 3:25

Employees, special status, 6:13

FIRST AGREEMENT ARBITRATION

See REMEDIES

FISHERMEN

Employers, exclusions, 6:12

FRAUD

Board discretion, 9:16

Collusion, 9:16

Status before board, 9:16

Statutory basis, 9:16

Test, 7:36, 7:46, 9:16

Timeliness, 9:16

FREEDOM OF ASSOCIATION

Anti-corruption measures, 3:26

Back-to-work legislation, Quebec, 3:25

Bargaining unit consolidation, 3:25

Certification, date of application rule,
3:28

Collective bargaining, 3:25

Compulsory interest arbitration, Quebec,
changes to, 3:25

Contract prohibitions, 3:25

Defined, 3:25, 3:27

agricultural workers, 2:9, 3:19, 3:25,
3:26

Essential service restrictions, 2:11, 2:12

Excessive delay, 3:31, 7:52

Exclusions, 3:26

agricultural workers, 3:19, 3:25, 3:26

construction industry, 3:27

managerial employees, 3:26

RCMP, 3:26, 6:15

underinclusiveness, 3:19

Freedom not to associate, 3:19, 3:27

Government executive intervention, 3:25

FREEDOM OF ASSOCIATION—Cont'd

- Impossible to achieve, **3:26**
- Mandatory dues check-off, constitutionality, **3:25**
- Police protests by uniform changes, prohibition of, **3:25**
- Representation votes
 - employee contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
- Statutory sale of business provision, **3:27**
- Wage restraints, **3:25**
- Wage rollbacks, **3:25**

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

- Certification disclosure, **3:28**

FREEDOM OF SPEECH/EXPRESSION

- American position, **3:28**
- Captive audience, listeners' rights, **3:29, 11:16**
- Consumer leafleting, **11:12**
- Contempt orders subject to, **3:28**
- Election Finances Act (Ontario), **3:28**
- Employees, **3:28, 10:4, 10:8**
- Employers
 - Alberta, **10:9**
 - American style campaign, **7:62, 10:9**
 - away from bargaining table, **10:27**
 - captive audience meetings, **7:62, 10:9**
 - conditions violation, breach of good faith bargaining, **10:9**
 - direct communications, **10:9, 10:24**
 - employer preference of unions, **10:9**
 - New Brunswick, **10:9**
 - Nova Scotia, **10:9**
 - parameters, **10:9**
 - petitions following employer address, **10:9**
 - reasonable employee resilience, **10:9**
 - restrictions
 - British Columbia, **10:9**
 - Canada Labour Board, **10:9**
 - Charter, **3:28**
 - corporate reorganizations, **10:4**
 - creation by Canada Labour Board, **3:28**
 - direct communication, **3:28**
 - employee input, **10:9**
 - imposition of collective agreement, **3:28**

FREEDOM OF SPEECH/EXPRESSION—Cont'd

- Employers—Cont'd
 - restrictions—Cont'd
 - intimidation, **10:9**
 - maturity of bargaining relationship, **10:9**
 - Ontario, **10:9**
 - opinion vs. coercion, **10:9**
 - organizing vs. bargaining, **10:9**
 - provincial variations, **10:9**
 - Saskatchewan, **10:9**
 - underlying assumptions, **10:9**
 - Saskatchewan, **10:9**
 - unfair labour practices of, **10:9**
- Enforcement Issues, **10:9**
- Labour boards, rights of, **3:28**
- Ontario, **10:9**
- Open court principle, **3:28, 5:12**
- Picketing, **3:29, 11:15**
- Police protests by uniform changes, prohibition of, **3:28**
- Representation votes
 - employee contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
- Restrictions
 - captive audience, **10:9**
 - direct communications, **10:9**
 - intimidation, **10:9**
- Restrictions on employers
 - intimidation, **10:9**
 - labour statutes, **3:28**
 - not a “gag” order, **10:9**
 - union's bargaining rights, **3:28**
- Restrictions on unions, employer's time, **3:28**
- Strike, **3:25, 3:28**
- Trade union leaders, **3:28**
- Union rules, **3:28**

FREE TRADE AGREEMENT

- Collective bargaining, fear of decline, **1:6**

FREEZES

- See also **WORKING CONDITIONS**
- After notice of desire to bargain
 - all legal incidents of relationship, **10:13**
 - business as before, **10:13**
 - business as before vs. static freeze, **10:13**

FREEZES—Cont'd

After notice of desire to bargain—Cont'd
 changes during, presumption of illegality, **10:13**
 collective agreement provisions, effect of, **10:12, 10:13, 10:25**
 continuation period, **10:13**
 dismissal, notice before effective after, **10:13**
 dismissal for cause, **10:13**
 employer policies, **10:13**
 government reorganization, **10:13**
 hours of employment, **10:13**
 job security, **10:13**
 notice to extend, first agreement, **10:14, 10:47**
 persons covered, **10:13**
 purpose of, **10:13**
 reasonable expectation approach, **10:13**
 statutory basis, **10:13**
 unfair labour practice, interference with trade union's role, **10:13**
 wage increase payment practices, **10:13**
 wages, change of, no perception of penalty, **10:13**
 Anticipated salary increase, **10:12**
 Any application, Saskatchewan, **2:12, 10:15**
 Application for labour board's consent jurisdictions compared, **10:12**
 Augmented perspective, **10:13**
 Before certification
 business as usual, **10:12**
 retender/successorship context, **10:12**
 unfair labour practice, **10:13**
 wage increases, **10:12**
 Weber, **12:19**
 Business as before
 employer straitjacket, **10:12**
 planned before application, **10:12**
 Changes during, presumption of illegality, **10:13**
 Closures, **10:12**
 Compared, **10:13**
 Dismissal for cause, **10:12**
 Duration, **10:14**
 Established practice of salary reviews, **10:12, 10:13**
 Liberal interpretation, **10:13**
 Necessity, defence of, **10:13**

FREEZES—Cont'd

Overlapping unfair labour practices, **10:13**
 Raises for improved productivity, **10:12**
 Statutory changes, **10:12**
 Unfair labour practices compared, anti-union animus, **10:12, 10:13**
 Unilateral change, when permitted, **10:13**

GREAT DEPRESSION

Change in public attitudes, **1:1**
 Legislative solutions, **1:3**

GRIEVANCES

Canada Labour Relations Board three-step analysis, **13:8**
 Collective vs. individual, balancing critical job interest theory, **13:8**
 Control of, debate language and theories, **13:8**
 Discharge, inevitable arbitration vs. self-correction, **13:8**
 Factors to be considered by union in pursuing
 cost, **13:6**
 relationship with employer, **13:6**
 Failure on basis of age and sex, **13:5**
 Individual rights theory, **13:8**
 Interests of entire unit, **13:8**
 Mediation of, **12:15**
 Merit and legal advice, **13:8**
 Notice of meeting to decide course of action, **13:8**
 Psychological harassment, Quebec prohibition against, **2:11**
 Union
 control vs. individual rights theory, **13:8**
 discretion of, **13:8**
 Verbal and written warnings, **13:8**

GUARDS

See SECURITY GUARDS

HEALTH AND SAFETY

Harassment, **5:17**
 Inspector's powers, **5:17**
 Judicial review, **4:9**
 Mandatory committee inspections, **4:9**
 Precautionary principle, **5:17**
 Retaliation, **5:17**
 Right to refuse unsafe work, **5:17**
 Suspension of an order, **5:17**

INDEX

HEARING

Conduct of, bias, **4:15**

HISTORY

Bibliographical note, **1:6**
Black Death, scarcity of workers, **1:2**
Breach of contract, employee protection,
1:2
Collective bargaining, **1:2**
Common law, criminal conspiracy, **1:2**
Industrial Revolution, abundance of
workers, **1:2**
Journeyman and apprentices, **1:2**
Picketing, **1:2**

HUMAN RIGHTS

Arbitral enforcement, **3:18**
Bona fide occupational qualification, **3:18**
Constitutional status, **3:18**
Contractualizing vs contracting-out, **3:18**
Customary international law, **3:18**
Discrimination, bar to certification, **7:58**
Employers and unions as targets of
complaints, **3:18**
Employer's duty to accommodate, **3:18**
General damages, **3:18**
General vs. labour statute, **10:16**
Intentionality of discrimination, **3:18**
Jurisdiction (courts vs. tribunals), **3:18**,
12:19
Liability for violation, **3:18**
Partial discrimination, **3:18**
Proof of discrimination, **3:18**
Quasi-constitutional dimension of laws,
3:18
Reasonable accommodation, **3:18**
Standard of judicial review, **3:18**, **4:10**

INDIGENOUS PEOPLES AND RESERVES

Ambulance/medical services,
constitutional basis, **3:14**
Cultural propriety of collective bargain-
ing, **1:6**
First Nations labour code vs. provincial
labour code, **3:14**
Jurisdiction, constitutional basis, **3:14**
Police services, constitutional basis, **3:14**
Unions, band councils, **3:14**

INJUNCTIONS

See REMEDIES

INTEREST ARBITRATION

Imposition beyond first contract, **2:5**
Police bargaining units in Nova Scotia,
and, **2:8**
Where strike in excess of sixty days,
11:28

INTERNATIONAL ASPECTS

International conventions
effect of, **1:5**
eight core conventions, **1:5**
federal state complexity, **1:5**
International Labour Organization,
membership, **1:5**
eight core conventions, **1:5**

JUDICIAL REVIEW

Abuse of authority, **4:1**
Abuse of process, **4:20**
Adequacy of reasons, **4:14**
Administrative excess, necessary redress,
4:1
Advisory opinions and reports, **4:29**
Alberta
board review of grievance arbitrations,
2:3, **4:2**, **4:16**, **4:23**, **12:17**
court-labour board division, **4:2**, **4:16**,
4:23, **12:17**
standard of review, **4:2**, **4:16**, **4:23**,
12:17
Appeal court's role, **4:19**
Arbitration boards
apprehended bias, whether to remit,
4:15
arbitrator vs designated officer, **4:19**
assault, **4:19**
Canada Labour Code grievance arbitra-
tors, **4:24**
consensual boards, **4:16**, **4:17**, **4:19**
costs as damages, **4:9**
Crown duty, impact on, **4:17**
deference, post Nor-Man, **4:18**
Dunsmuir, **4:9**, **4:18**
employee free-expression, **4:19**
external law, application of, **4:17**
formation of question to the board,
4:18
forum non conveniens, **4:19**, **4:20**, **5:5**
forum selection, **4:19**
hallmarks of grievance arbitration, **4:16**
interest arbitration, bias, **4:15**
interlocutory decisions, **4:19**

JUDICIAL REVIEW—Cont'd

Arbitration boards—Cont'd
 judicial distortion, **4:16**
 jurisdiction to review, British Columbia, **4:19, 4:21**
 labour board review, **4:2, 4:16, 4:21, 4:23, 12:17**
 mediation-arbitration bias, **4:15**
 mitigation, **4:17**
 natural justice, **4:16, 4:17**
 nature of, **4:18**
 reasonableness, **4:16**
 rectification, **4:18**
 remit back to same or different arbitrators, **4:15, 4:16**
 role of courts, **4:16**
 scope of review of, **4:16**
 sexual harassment, **4:19**
 similar cases, similar treatment, **4:19**
 specific vs. general question, **4:18**
 standard of review
 overview, **4:16**
 patently unreasonable, **4:10**
 unification post-Dunsmuir, **4:19**
 Vavilov, **4:10, 4:19.50**
 statutory
 creation of, **4:17**
 errors of jurisdiction and law, **4:17, 4:19**
 no longer relevant, **4:16**
 staying effect of, **4:25**
 time limits OLRB, **12:17**
 Bargaining rights, **4:7**
 Bias, **4:15**
 ex parte discussions, **4:15**
 impartiality presumed, **4:15**
 managing the litigation, versus, **4:15**
 undue intervention, **4:15**
 Board's remedial actions, considered, **4:5**
 British Columbia
 board review of grievance arbitrations, **4:2, 4:16, 4:21, 12:17**
 court-labour board division, **4:2, 4:21, 12:17**
 standard of review, **2:4, 4:2, 4:9, 4:21, 12:17**
 Certiorari, grounds for, **4:2**
 Certiorari and mandamus, Alberta, **4:2**
 Conciliation boards, approach to, **4:15**
 Damages, not available, **4:24**

JUDICIAL REVIEW—Cont'd

Degree of analysis of merits of a decision, **4:7**
 Differences of legal opinion, permission of, **4:6**
 Discretion, **4:10, 4:19.50, 4:20**
 Divergent outcomes and deference, **4:9**
 Exhaustion, **4:20**
 External law, **4:11**
 Final and binding
 effect of, **4:2**
 vs. rule of law, **4:16**
 Finality vs., no-certiorari clause, **4:8**
 Fragmentation, judicial policy against, **4:20, 4:25**
 Functional and pragmatic approach, **4:7**
 Functus officio, **4:13**
 Human rights laws, **3:18, 4:10**
 Intervenor status, **4:28**
 Judicial discretion, **4:20**
 Judicial independence and labour boards, **4:15**
 Judicial notice, **4:13**
 Jurisdiction
 administrative tribunals generally, **4:7**
 correctness test, **4:6**
 courts
 administrative agencies, compared, **4:1**
 historic role, **4:1**
 statutes limiting judicial role, **4:1**
 describing, listing and limiting approach, **4:6**
 functional and pragmatic approach, **4:7**
 honest differences, **4:7**
 jurisdictional error
 approaches to, **4:3**
 categories of reviewable error, **4:6**
 non-jurisdictional error, compared, **4:3**
 role of Supreme Court of Canada, **4:3, 4:4**
 meaning of, **4:2**
 patent unreasonable test, **4:7**
 privative clause, effect of, **4:2**
 refinement, **4:3**
 Labour boards
 bias, **4:15**
 Charter values, **4:11**
 mootness, **4:9**

INDEX

JUDICIAL REVIEW—Cont'd

- Labour boards—Cont'd
 - power to reconsider, in lieu of appeal, **5:5**
 - reasons required, **4:14**
 - review of own panels, **4:2**
 - standing, **4:26**
 - staying effect of, **4:25**
 - unit exclusions, **6:5**
- Labour disputes
 - deferral to labour boards, availability of alternated remedy, **11:9**
 - defined, **11:9**
 - multiple forums, problem of, **11:9**
- Legal, administrative and legislative tension, **4:5**
- Limits to administrative action, consensus, **4:3**
- Natural justice
 - see NATURAL JUSTICE
- Ontario and British Columbia timelines, **4:21**
- Open court principle, **4:14, 5:12, 10:37.50, 13:18**
- Polycentricity principle, **4:7**
- Preliminary matter, meaning of, **4:4 to 4:6**
- Prematurity, **4:20, 4:25**
- Prerogative writs, **4:1**
- Privative clauses
 - see PRIVATIVE CLAUSES
- Procedural fairness, **4:13, 4:15**
 - audio recording/transcript, **4:12**
 - functus officio, **4:13**
 - independence, **4:15**
 - notice, **4:13**
 - policy changes, **4:13**
 - public employees, **4:9**
- Procedure
 - affidavit evidence, **4:21**
 - application not automatic stay of tribunal, **4:25**
 - British Columbia
 - Judicial Review Procedure Act, **4:21**
 - service requirements, **4:21**
 - federal courts, **4:24**
 - Ontario
 - Judicial Review Procedure Act, **4:21**
 - urgency, **4:21, 4:25**

JUDICIAL REVIEW—Cont'd

- Procedure—Cont'd
 - Ontario and British Columbia
 - appeal, **4:21**
 - factums, **4:21**
 - new evidence, **4:21**
 - return to tribunal, **4:21**
 - service requirements, **4:21**
 - staying orders, **4:25**
 - other provinces, no specific legislation, **4:23**
 - Prince Edward Island
 - differences from Ontario and British Columbia, **4:22**
 - Judicial Review Act, **4:22**
 - Quebec, **4:23**
 - standing
 - employees, **4:27**
 - labour boards, **4:26**
 - staying of operation of decision, **4:20, 4:25**
 - staying order, public interest, **4:25**
- Recent restraint of, **11:9**
- Reconsideration, **4:20, 5:13**
- Remedies
 - deference to labour board's expertise, **10:1**
 - discretion, **4:16, 4:20, 4:21**
 - fashioned by administrative agencies, judicial caution, **4:5**
 - judicial substitution, **4:21**
- Representation votes, **4:6**
- Sale of business, rights on, **4:7**
- Scope, ministerial power to contract, **4:21**
- Standards of review, **4:2, 4:9 to 4:11, 4:17, 4:21**
 - Alberta, **4:2, 4:16, 4:23**
 - British Columbia, **4:2, 4:9, 4:21**
 - clarification and new framework, Vavilov, **4:10**
 - external law, **4:11**
 - jurisdictional lines between tribunals, **4:10, 4:11, 4:17 to 4:19, 5:12**
 - new approach, Dunsmuir, **4:9, 4:17**
 - Newfoundland and Labrador, **4:18**
 - patently unreasonable, **4:2, 4:9, 4:10, 4:17, 4:21**
 - patent unreasonableness, **4:2, 4:21**
 - review of reviewing judge, **4:10**
- Standing, **4:26**
- Strikes, board's ambit, **4:6**

JUDICIAL REVIEW—Cont'd

- Supreme Court of Canada
 - caution in doctrine setting, **4:1**
 - early indifference, **4:3**
 - evolving guidelines, **4:4, 4:6, 4:7, 4:9, 4:11, 4:15**
- Timeliness, **4:21, 4:23**
- Tort and property law, ex parte relief, **11:9**
- Trade union's exclusive control over, **4:27**
- Tribunal decision making, deferential approach, **4:15**
- Unfair labour practices, jurisdiction, **10:32**
- United States, methods to settle to be agreed to, **4:16**

JURISDICTIONAL DISPUTES

- See also CONSTRUCTION INDUSTRY
- Abuse of process, **15:20**
- Certification, **15:3**
- Context essential, **15:21**
- Criteria, **15:21**
- Multiple bargaining units, **6:6, 15:17**
- Upstream sources of work, **15:25**

LABOUR BOARDS

- Abuse of process, **5:5**
- Adjournments, considerations, **5:8, 5:10, 5:14**
- Administrative discretion, **5:2**
- Administrative Tribunals Act (B.C.), **2:4, 4:2**
- ADR hearings, **5:2, 5:9**
- Appointees
 - from industry, bias, **4:15**
 - government appointees directive, **5:6**
 - right to complete cases, **4:15, 5:6**
- Arbitrators, collective agreement enforcement shared, **12:16**
- Bankruptcy, **8:2**
- Build-up principle, **7:52, 7:58**
- Clustering of tribunals, **2:2, 2:4, 2:8, 2:11**
- Collective agreements, original jurisdiction over, **12:17**
- Composition
 - no right to review, **5:6**
 - quorum, **5:6**
 - tripartite, rationale, **5:6**
 - tripartite variation, **5:6**
- Conduct of counsel, **5:5**
- Confidential information, **5:11, 5:12, 7:25, 7:27**

LABOUR BOARDS—Cont'd

- Conflicted counsel, **5:5**
- Consistency, value of, **5:2**
- Consultation process, **4:13**
- Courts
 - compared with, **5:3, 5:5, 10:32, 11:19, 11:21, 12:19**
 - policy reasons, compared, **4:1**
 - specialization and expertise, compared, **4:1**
- Damages, not available, **4:24**
- Dangers of over-scrutiny, **10:24**
- Decisions
 - time limits, **5:7**
- Delays
 - abuse of process, **5:5, 5:14**
 - effect of, **5:14**
 - full hearing vs. prejudice, **5:14**
 - health and safety, **5:17**
 - reasonableness, **5:14**
 - statutory time-limits, **5:14**
 - treatment of, **5:14**
- Disclosure, **5:12**
- Discretion
 - consolidation, Ontario and British Columbia, **7:18**
 - craft units, **7:13 to 7:15**
 - deferral to arbitration, **12:16**
 - religious convictions of employees, **14:7**
 - representation votes, **7:52**
 - termination of bargaining rights
 - fraud, **9:16**
 - lack of support, **9:2**
- Employer's identity, test for, **6:6**
- Estoppel, **5:11**
- Evidence
 - burden of proof, and, **5:11, 5:12**
 - confidential commercial information, **5:12**
 - confidential date of membership, disclosure only by temporal ranges, **5:12, 10:49**
 - expert testimony, **5:11**
 - interim relief, **5:8**
 - joint caucus discussions, **5:11**
 - polygraph, **5:11**
 - privileged, **5:8 to 5:12**
 - scope of hearing, **5:8**
 - surreptitious audio recordings, **5:11**

LABOUR BOARDS—Cont'd

- Evidence—Cont'd
 - test of relevance, **5:8, 5:11**
 - video evidence, **5:11**
 - witness exclusion, **5:11**
- Functus officio, **5:11**
- Hearings
 - conduct of, **5:9**
 - contradictory evidence, **5:9**
 - discretionary nature, **4:10, 4:13, 5:8, 5:9**
 - examinations and investigations, **5:8**
 - no oral hearing, **4:13, 5:9**
 - standing, **5:8, 7:24**
 - video-conferencing, **5:9**
 - view of workplace, **5:11**
- Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020, **2:2, 5:9**
- Immunity, **5:6**
- Insolvency, **8:2**
- Inter-jurisdictional deference, **8:5**
- Intermingling, rival unions, **8:5**
- Judicial independence, **4:15**
- Judicial review
 - see JUDICIAL REVIEW
- Jurisdiction
 - attornment, **5:3, 6:15, 7:2, 10:28, 11:23**
 - by necessary implication, **5:5**
 - Canadian Charter of Rights and Freedoms, to apply, **3:20**
 - Charter values, **3:19, 5:5**
 - collective bargaining, **5:5**
 - comprehensive, attributes of, **5:5**
 - conflicted counsel, **5:5**
 - essential character of a dispute, **5:5, 12:19**
 - exclusive, whether, **5:5, 10:32, 11:8, 11:23, 12:19**
 - forum non conveniens, **5:5**
 - House of Commons/NDP Caucus/provincial legislative assemblies, **5:5**
 - interference with economic interests, **12:19**
 - lack thereof, **5:5**
 - membership support, **7:25**
 - mootness, **5:8**
 - over foreign corporations, **5:5**
 - parliamentary privilege, **5:5**
 - prospective ruling, **6:2**

LABOUR BOARDS—Cont'd

- Jurisdiction—Cont'd
 - stays, **4:21, 5:13**
 - Weber v Ontario Hydro, **5:5, 12:19**
- Labour disputes
 - British Columbia, unlawful strike or lockout, **11:8**
 - multiple forums, problem of, **11:9**
- Labour relations officers, Quebec, **5:7**
- Limits to administrative action, judicial right to intervene, **4:3**
- Members, office at pleasure of executive, **4:1**
- Orders
 - compliance with, measure of effectiveness, **5:15**
 - enforceable as judgment, duty to file with court, **5:15**
 - enforceable by courts, **5:15**
 - enforcement of
 - committal for contempt, **5:15**
 - contempt of court, **5:15**
 - criminal sanctions, **5:15**
 - imprisonment, **5:15**
 - opportunity to purge contempt, **5:15**
- Other duties, **5:16 to 5:19**
- Overlapping jurisdiction, **6:16**
- Parliamentary privilege, **5:5**
- Powers and duties
 - abuse of process, **5:5**
 - arbitral review, **4:2, 4:16, 4:21, 12:17**
 - bargaining rights, termination vs. reconsideration, **9:9**
 - bargaining units
 - criteria, **7:2**
 - size of, **7:2**
 - certification, **5:5**
 - Charter rights, **3:31**
 - collective bargaining, reluctance to interfere, **10:24**
 - declaratory ruling, **5:8**
 - deferral, **5:5, 8:11**
 - detailed questions, **5:5**
 - general remedial powers, **10:38**
 - marshalling powers, **5:8**
 - modification of collective agreements on intermingling, **8:5**
 - mootness, **5:8**
 - more responsibilities, **5:19**
 - notice, ordering of, **5:8**

LABOUR BOARDS—Cont'd

Powers and duties—Cont'd

- party agents, exclusion of, **5:9**
- power to reconsider, in lieu of appeal, **5:5**
- privilege litigation, **5:11**
- procedure
 - anonymization requests, **5:12, 10:37**
 - control of, **5:5**
 - non-suit, **5:11**
 - settlement activity, **5:7, 5:8**
- related employers
 - collective bargaining imposed, **8:6**
 - finding of, **8:6**
 - joint ventures escape from collective agreements, **8:6**
 - preconditions to discretion, **8:6**
 - purpose of exercise of discretion, **8:6**
 - remedies, **8:6**
 - test of common control or direction, **8:6**
 - test of functional integration, **8:6**
- remedial power, unfair labour practices, **10:1**
- remedies
 - see REMEDIES
- rule making, **5:2**
- summary dismissal, **5:8, 13:16**
- summons to witness, **5:8**
- termination of bargaining rights,
 - abandonment, **9:8**
- termination of voluntarily recognized agent's rights, **9:5**
- time limits, relief against, **5:14**
- trusteeships, **14:2**
- unfair labour practices, general complaints, **10:29**
- unsafe work complaints
 - jurisdiction, **5:5, 5:17, 5:18**
 - picket lines, **5:17**
 - procedural election, **5:17**
 - proper skills, **5:17**
 - recent jurisdiction, **5:17**
 - vexatious litigants, **5:5**
- Preamble, **5:4**
- Privilege
 - settlements, **5:11**
 - solicitor-and-client, **5:11**
- Procedure
 - burden of proof, **5:8, 10:2, 10:20**

LABOUR BOARDS—Cont'd

Procedure—Cont'd

- case management systems, **5:7**
- change in dispute resolution culture, **5:8**
- conducting representation votes, **5:7**
- credibility findings, **5:11**
- decisions without formal hearings, **5:7 to 5:9**
- failure to file timely pleadings, **7:24**
- field centres, **5:7**
- inferences, drawing adverse, **5:11**
- interim relief, **10:39**
 - onus, **5:11**
- intervenor, right to intervene, **4:28, 5:8**
- lack of prima facie case, **5:8, 5:9, 10:29**
- non-suit principles, **5:11**
- no requirement to transcribe/audio record, **4:12**
- notice of proceedings, **5:8**
- open court principle, **4:14, 5:12, 10:37.50, 13:18**
- particulars, orders for, **5:8**
- pleadings, amendments, **5:8**
- privacy interests, **4:14**
- processing time, **5:7**
- production, orders for, **5:8**
- recording of proceedings, **5:9**
- service, **5:8**
- settlement activity, **5:7**
- virtual online proceedings, **5:7**
- will-say statements, **5:11**
- Prosecution of offenders by others, **10:1**
- Public service, jurisdiction over, **5:18**
- Quebec Administrative Labour Tribunal, **5:13**
- Quebec Commission des relations du travail, **5:6**
- Reasons, need for, **4:14, 5:8**
- Reconsideration, **5:13**
- Reporting relationships, **5:6**
- Representation votes, conduct conditions, **7:52**
- Reprisals, **2:2**
- Res judicata, **5:11, 5:13**
- Review and reconsideration
 - Alberta, **5:13**
 - British Columbia, **5:13**
 - Canada board, **5:13**

INDEX

LABOUR BOARDS—Cont'd

Review and reconsideration—Cont'd
 conflicting authority, **5:13**
 evidence, reweigh, **5:17**
 expansive vs. narrow approach, **5:13**
 first impression, **5:13**
 interim procedural rulings, **5:13**
 Manitoba, **5:13**
 natural justice, **5:13**
 New Brunswick, **5:13**
 new evidence, **5:13**
 Nova Scotia, **5:13**
 Ontario, **5:13**
 own initiative, **5:13**
 powers of, **5:13**
 preliminary rulings, **5:13**
 process, **5:13**
 Quebec, **5:13**
 reasons, absence, **5:13**
 requests for, **5:13**
 res judicata, **5:13**
 same panel, by, **5:13**
 Saskatchewan, **5:13**
 timeliness, **5:13**
Review of grievance arbitrators, **4:2**,
 4:16, 4:23, 4:26
Review of own panels, **4:2**
Rights of employees, general vs. statutory,
 10:16
Rule making and decisions, **5:2, 5:10**
 United States, in, **5:10**
Sale of business, determination of, **8:1**
Security of tenure, nature and effect of,
 5:6
Settlement activity, **10:35, 15:7**
 confidential from board, **4:14**
 importance, **5:7**
 settlement, determination, **5:7**
 settlement, enforcement, **10:35**
 settlement privilege, **5:11**
Settlement officers, pleadings and
 discoveries, **4:14**
Standing
 generally, **4:26**
 before the board, **5:8, 7:24**
 intervenor
 direct interest, **4:28**
 public interest, **4:13, 4:28**
 special interest, **4:28**
 limits, no bootstrapping, **4:26**

LABOUR BOARDS—Cont'd

Standing—Cont'd
 standard of review, **4:13**
 unlawful strike declaration, **11:23**
Statutes extrinsic to enabling legislation,
 4:8, 4:11
Statutory interpretation, modern
 approach, **5:4**
Statutory Powers Procedure Act (Ont.),
 5:15
Time-limits
 constitutional challenges, **5:13**
 criteria to extend, **5:14**
 directory, health/safety, **5:17**
 for decisions, **2:9**
 relief against, **5:14**
Tribunal Adjudicative Records Act, 2019
 (Ont.), **2:9**
Tripartite basis, elimination of bias, **4:15**
Unfair labour practices, remedial powers,
 provincial variations, **2:13**
Unified labour board
 Nova Scotia, **2:8**
Unsafe work
 employer precautions, **5:17**
 skill of fellow employee, **5:17**

LABOUR-MANAGEMENT COMMITTEES

Newfoundland and Labrador, **11:29**,
 12:14

LABOUR RELATIONS

Administrative approach, United States,
 5:1
Discretion
 legislation, **5:2**
 undue legalism, **5:2**

LEGISLATION

Arbitration, early statutes, **1:2**
Boards of investigation, enforceability of
 decisions, **1:2**
Canada Labour Code
 see CANADA LABOUR CODE
Compulsory conciliation, early statutes,
 1:2
Criminal activity, limitations, **1:2**
Industrial Relations and Disputes
 Investigation Act, 1948
 as model, **2:1**
 compulsory collective bargaining, **2:2**

LEGISLATION—Cont'd

Industrial Relations and Disputes
Investigation Act, 1948—Cont'd
principles, **1:4**
Railways Labour Disputes Act, 1903, **1:2**
Trade unions, attempt to legitimize, **1:2**
Uniform provincial laws, **1:4**

LOCKOUTS

Before impasse, duty to bargain, **10:27**
Canada board, freeze context, **10:14, 11:5**
Continuation of employment, statutory
bases, **10:7**
Defined, **11:2, 11:5**
Employer's motivation, **11:5**
Notice, **11:25**
Notice of contingent layoff, **11:5**
Relocation as, unfair labour practices,
10:6
Strike compared, **11:5**
Test, revocability of decision, **11:5**
Unlawful
board dispositions, **11:8**
board powers, British Columbia, **11:8**
Voting
see VOTING

LONGSHORE INDUSTRY

Certification
date of application, significance, **7:23**
Legislative evolution, **2:2**

MANAGERS

Alteration to status quo, **6:4**
Canada Labour Code, employees, **6:3**
Collective bargaining rights to, **6:3**
Construction industry, **6:3**
Effective authority, **6:3**
Effective control test, **6:3**
Effective determination test, **6:3**
Excluded as employees
arbitral jurisdiction, **6:4**
Canadian Charter of Rights and
Freedoms, **6:5**
confidential capacity, **6:5**
conflict of interest, **6:3, 6:5**
directors, **6:3**
explanation for, **6:3**
eyes and ears perspective, relevance,
6:3
family members of owners, **6:3**
federal and provincial employees, **6:3**

MANAGERS—Cont'd

Excluded as employees—Cont'd
genuine responsibilities, **6:3**
health care industry, **6:3**
hired as manager, **6:3**
impact on employment of others, **6:3**
independent decision-making test, **6:3**
insoluble conflict of interest test, **6:3**
management team concept, **6:3**
narrow interpretation, **6:3**
ownership distinguished, **6:3**
primary responsibilities, **6:3**
ratio of supervisors to employees,
relevance, **6:3**
seasonal variations, **6:3**
shareholders, **6:3**
sprinkling of managerial tasks, **6:3**
statutes, **6:3**
supervisors, distinguished, **6:3**
temporary seconded, **7:53**
Inclusion
Manitoba, **6:3**
Loyalty to employer, **6:3**
Meaning of, statutory, **6:3**
Prince Edward Island, **6:3**
Professionals, **6:3, 6:10**
Saskatchewan
provisional determination power, **6:5**
Versus supervisors, **6:3**

MANDATORY RETIREMENT

Case law, **3:19**
Collective agreements, Charter rights,
3:30

MANITOBA

Administrative Tribunal Jurisdiction Act,
2:5
Arbitration, mid-term process, **2:5**
Arbitrators, procedural powers, **2:5**
Bargaining unit determinations, **7:10,**
7:16, 7:19
Bilingual requirements, **2:5**
Burden of proof (ULP), **10:2**
Certification, **7:7**
Code of employment, **2:5**
Collective agreements, rights after
termination, **2:5**
Conciliation, **2:5**
Conciliation/grievance mediation,
privatization, **2:5, 11:26**

INDEX

MANITOBA—Cont'd

- First agreement arbitration, **2:5, 10:47**
- Health sector
 - appropriate decision-maker, **7:9**
- Health Sector Bargaining Review Act, **2:5, 7:9**
- Interest arbitration, imposition beyond first contract, **2:5, 11:28**
- Labour board, composition and power, **2:5**
- Labour Relations Act, **2:5**
- Labour relations board, powers of, **2:5**
- Mandatory representation votes, **2:5, 7:24**
- Pay Equity Act, **2:5**
- Professional employees, **2:5**
- Public Service Act, **2:5**
- Public Services Sustainability Act, **2:5, 3:25**
- Replacement workers, **2:5**
- Review and reconsideration, **5:13**
- Strikes and lockouts, when valid, **2:5**
- Subsequent agreement arbitration, **2:5, 10:48**
- Teachers, **6:14**
- Termination of bargaining rights, **9:2**
- Unfair labour practice certification, **7:66**
- Unfair labour practices, **2:5**
- Unions
 - certification process, **2:5**
 - decertification, **2:5**
 - disclosure of officials' salaries, **2:5**
 - power to sue, **2:5**
 - status, **6:7**
- Votes, majority votes vs. majority eligible, **2:5**

MEDIATION

See CONCILIATION

MEMBERSHIP

- Actions
 - alteration of constitution or rules, **14:32**
 - breach of work opportunity provision, **14:29**
 - conduct of union elections, **14:30**
 - misapplication of union funds, **14:33**
 - removal of union officers, **14:31**
 - to enforce constitution, rules and by-laws, as breach of contract, **14:28**
- Applicants, statutory protections, **14:6**

MEMBERSHIP—Cont'd

- Complaints, duty to exhaust internal remedies
 - constitutional basis, **14:26**
 - expulsion, **14:26**
 - extent of, **14:26**
 - futility of appeals, **14:26**
 - harshness of, **14:26**
 - when relaxed, **14:26**
- Condition of agreements, **2:13**
- Confidentiality, **5:12**
- Criteria, **2:13**
- Curable deficiencies, **5:12, 7:24, 7:25, 7:27, 7:32**
- Declaration of union, **7:28, 7:31, 7:32**
- Evidence
 - see EVIDENCE OF MEMBERSHIP
- Fees, proof of, **7:25**
- Forms of, standards of propriety, **7:25**
- Hearsay allegations, **7:29**
- High standards of reliability, **7:27, 7:46, 7:51, 9:3**
- Initiation fee
 - two-tiered, **7:36**
- Local vs. parent union, in, **7:35**
- Minimum percentages, labour board jurisdiction, **7:25**
- Minors, **7:25**
- Misrepresentation, **7:36, 7:47**
- Online, Internet, **7:46**
- Onus, balance of probabilities, **7:26**
- Overview, **7:25**
- Proof of, **7:25**
- Religious objections, dues to charity, **2:13**
- Remedies
 - accounting, **14:35**
 - damages in tort, **14:35**
 - declaration, **14:35**
 - injunction, **14:35**
 - mandamus, **14:35**
- Revocation
 - British Columbia, **7:42**
 - Ontario, **7:26**
 - Saskatchewan, **7:24, 7:45**
- Tainting, management involvement, **7:26**
- Timing, relevance of, **7:25, 7:26, 7:42**
- Union's charter
 - practice of ignoring exclusions, **7:25, 7:33**
 - requirements and exclusions, **7:25**

MEMBERSHIP—Cont'd

- Union's practices, **7:25**
- Voting
 - documentary compared, **7:25**
 - employee wishes as alternative, **7:25**
- Who may challenge, Ontario, **7:40**
- Written vs. oral, **7:25**

MINORITIES

- See **EQUAL OPPORTUNITY**

MINORS

- Union membership, status of, **6:16**

NATIONAL LABOR RELATIONS BOARD

- See **UNITED STATES**

NATURAL JUSTICE

- Adjournment policies, **4:13**
- Audio recording/transcript, **4:12**
- Bias
 - allegation of in application, **4:15**
 - allegation of in record of hearing, **4:15**
 - common law rule against, **4:15**
 - conduct of hearing, **4:15**
 - direct relationship with litigant, **4:15**
 - industry appointees, **4:15**
 - language rights, **4:15**
 - mid-hearing comments, **4:15**
 - previous adjudication, **4:15**
 - previous relationship, **4:15**
 - recusal, not subject to agreement, **4:15**
 - retired judges, **4:15**
 - test for, **4:15**
 - tripartite board composition, **4:15**
- Consultation process, **4:13**
- Fair hearing, **4:9, 4:12 to 4:14, 4:16**
- Full disclosure
 - cross-examination, **4:14**
 - evidence, receipt of, **4:14**
 - membership secrecy, **4:14**
 - open court principle, **4:14, 5:12, 10:37.50, 13:8**
 - pleadings and discoveries, **4:14**
 - privacy interests, **4:14**
 - procedural straitjacket, **4:14**
 - rules of procedure, **4:14**
- Functus officio, **4:13**
- Good faith and evenness, **4:12**
- Internal trade union affairs, **14:27**
- Jurisdictional errors, **4:12**

NATURAL JUSTICE—Cont'd

- Neutral facilitators, exclusion of evidence of, **4:14**
- Notice requirements, **4:13**
- Procedural fairness, **4:14**
- Right to be heard, **4:13**

NAVIGATION AND SHIPPING

- Extraprovincial voyages, **3:7**
- Provincially regulated industries, when ancillary to, **3:7**

NEGLIGENCE

- Carelessness, degree of, **13:7**
- Mere vs. gross, **13:6 to 13:8**
- Quebec DFR prohibition, **13:7**
- Quebec prohibition, **13:7**
- Ratification votes, **13:7**
- Standard of care at all times, **13:7**
- Union volunteers and professionals, **13:7**

NEW BRUNSWICK

- Bargaining units
 - fragmentation, **7:19**
- Charter of Rights compliance, **2:6**
- Collective agreements
 - expedited arbitration, **2:6**
 - mandatory arbitration, **2:6**
- Collective bargaining, final offer votes, **2:6**
- Firefighters, **2:6, 6:13**
- First agreement arbitration, **2:6, 10:47**
- Human rights, role of labour board, **5:19**
- Interest arbitration, criteria, **2:6, 6:13**
- Labour board, duties and powers, **2:6, 5:19**
- Legislation, evolution, **2:6**
- Police, **2:6, 6:13**
- Reconsideration, **5:13**
- Remedial certification, **7:69, 10:49**
- Secondary picketing, **11:15, 11:20**
- Strikes
 - conditions for, **2:6**
 - slowdowns, **2:6**
- Time limits, interpreted, **5:14**
- Unfair labour practices, **2:6**
- Unions
 - certification procedure, **2:6**
 - employer interference prohibited, **2:6**
 - legal status, **2:6**
 - local compulsory membership, **2:6**

INDEX

NEWFOUNDLAND AND LABRADOR

- Abandonment, bargaining rights, **9:8**
- Arbitration
 - binding, **2:7**
 - compulsory, hospital workers, **2:7**
- Bargaining unit
 - community of interest, **7:23**
- Bill 37 (2012), **2:7**
- Card-based certification, **7:24**
- Collective agreements, binding on new owners, **2:7**
- Construction industry, **2:7**
- Employers, extraprovincial company, **2:7**
- Employers' organizations, **2:7**
- Essential services, **11:30**
- First-agreement arbitration, **10:47**
- Freeze/dismissals, **10:12**
- Labour board, powers and procedures, **2:7**
 - build-up principle, jurisdiction, **7:53, 7:59, 15:6**
- Labour Relations Act, **2:7**
- Legislation, evolution of, **2:7**
- Public Sector Restraint Act, **2:7, 3:30**
- Representation votes, **2:7, 7:24**
 - application for certification, **2:7**
 - termination of bargaining rights, **2:7**
- Secondary picketing, **11:15, 11:20**
- Slowdowns, **2:7**
- Special projects, **2:7**
- Trade Union Act, **2:7**
- Unions
 - compulsory registration, **2:7**
 - decertification, **2:7**
 - legal status, **2:7**
 - reporting requirements, **2:7**

NON-AFFILIATION CLAUSES

- Construction industry
 - constitutionality, **3:27**
 - exclusion of unionized workers, **15:33**
 - nature of, **15:33**
 - purpose of, **15:33**
 - triggering of, **15:37**
 - working with, meaning of, **15:37**

NORTHWEST TERRITORIES

- Collective bargaining, federal authority, **3:6**

NOVA SCOTIA

- Bargaining unit consolidation, **7:18**

NOVA SCOTIA—Cont'd

- Certification
 - additions and exclusions, **7:17**
 - backdoor, **7:17**
 - construction industry, **5:9, 15:6**
 - date of application, **7:26**
 - remedial, **7:68, 10:49**
- Confidential capacity exclusion, **6:5**
- Construction industry, **2:8, 5:9, 15:6, 15:14**
- Construction Projects Labour Relations Act, **2:8, 15:16**
- Duty of fair representation, **13:1**
- Essential service employees, **2:8, 11:30**
- Evidence of membership
 - employer standing, **7:43**
- Expedited arbitration procedure, **12:7**
- First contract arbitration, **2:8**
- Fishermen, collective bargaining rights, **2:8**
- Interest arbitration and police units, **2:8**
- Inter-sectoral disputes, **15:6**
- Labour board
 - consolidation, **2:8**
 - reconsideration limitations, **5:13**
 - unfair labour complaints, **2:8**
 - work stoppage, **2:8**
- Legislation, evolution of, **2:8**
- Michelin Bill, **2:8**
- Native born preference, **2:8**
- Pay equity for women, **2:8**
- Representation vote, amalgamation, **8:5**
- Trade Union Act, **2:8**
- Transfer of business, successor rights clause, **2:8**
- Unions
 - certification procedure, **2:8**
 - certification requirements, **2:8**

NUNAVUT

- Collective bargaining, federal authority, **3:6**

OCCUPATIONAL HEALTH AND SAFETY

- Labour board responsibilities, **5:5, 5:17**
 - discretion to inquire, **5:17**
- Reprisal
 - lesser penalties, **5:17**
- Requirement pending investigation, **5:17**
- Right to refuse unsafe work, **5:17**

ONTARIO

See also **CONSTRUCTION INDUSTRY**
Ambulance essential services, **2:9**

Arbitration

first contract, **2:9**

procedures, **2:9**

Bargaining units

collective bargaining, agricultural
workers, **2:9**

consolidation, **7:18**

statutory provisions, **7:9**

Certification

card-based, specified industries, **7:52**

certificate spent, **7:18**

Conciliation, 2:9**Construction industry, 2:9**

arbitrated relief where employer eco-
nomic hardship, **2:9, 15:13**

arbitration, final offer selection, **2:9**

definition of non-construction

employer, **2:9, 15:5**

hiring hall referral restrictions, **2:9,**
15:30

project agreement procedures, **2:9, 15:6**

White Areas eliminated, **15:6**

Craft units

policy and provisions, **7:12**

Crown Employees Collective Bargaining Act, 1993, 2:9, 8:2**Digital Platform Workers' Rights Act, 2:9****Dismissal and discipline, just cause, 10:3****Early legislation, 2:9****Employees, dependent contractors, 2:9****Employers' organizations, 2:9****Essential services, 2:9, 11:30****Fraud, 7:36, 9:16****Hearings in Tribunal Proceedings (Temporary Measures) Act, 2020, 2:9****Hiring hall referral restrictions, 15:30****Judicial Review Procedure Act, 4:21****Labour board**

decision time-limits, **2:9**

dependent contractors, interpretation,
6:2

powers, **2:9**

Labour Relations Act, 2:9**Labour Relations Act, 1995, 2:9****Legislation, evolution of, 2:9****Managers, interpretation of, 6:3****ONTARIO—Cont'd**

Notification of decertification procedures,
2:9

Pay equity for women, **2:9**

Picketing

see **PICKETING**

Ratification votes, **2:9**

Related employer

key employee defined by statute, **2:9,**
8:6, 15:10

labour board precluded from consider-
ing relationship by blood, etc.,
2:9, 8:2, 15:10

Return to work legislation

power workers, **2:9**

School boards

bargaining structures, **2:9**

Strikes

professional strikebreakers, **2:9**

right of non-union employees, **2:9**

Successor

cleaning, food and security, **8:2, 8:4,**
8:10

Ontario, **8:10**

rights provision, **2:9**

Teachers

bargaining structures, **2:9, 6:14**

subject to Labour Relations Act, **2:9,**
6:14

Toronto Transit Commission, 2:9**Trade qualifications, 2:9, 7:12, 15:6****Unfair labour practices, 2:9****Unions**

audit of financial records, **2:9**

dues deductions, **2:9**

fair representation, **2:9**

hiring hall referral restrictions, **2:9,**
15:30

rights, **2:9**

trusteeships, just cause, **2:9, 14:2**

Volunteer firefighters

two-hatting protection, **2:9**

PICKETING**Alberta**

secondary or expanded, **11:15, 11:19,**
11:23

wrongful act, defined, **11:19, 11:23**

Boycotts

Charter rights, private disputes not
covered, **11:17**

PICKETING—Cont'd

Boycotts—Cont'd
 federal pickets, **11:2, 11:3, 11:18**
 free speech vs. right to trade, **11:17**
 nature of, **11:17**
 British Columbia
 access of a federal employer, **3:3, 11:18**
 ally
 active assistance, **11:18**
 defined, **11:18**
 separate and distinct operations, **11:18**
 back-to-work legislation, in context of, **11:18**
 common situs picketing, **11:18**
 criteria, **11:18**
 defined, **11:18**
 effect on non-parties, **11:18**
 Federal pickets, **11:2, 11:3, 11:18**
 judicial and legislative sensitivity, **11:13**
 labour board sophistication, **11:18**
 liability and ex parte injunctions, **2:4**
 petty trespass, exclusive court jurisdiction, **11:18**
 picketing vs. hot declaration, **11:18**
 piercing corporate veil, related companies, **11:18**
 primary vs. secondary, **11:18**
 restrictions, **2:4**
 safety concerns, **11:18**
 secondary site while collective agreement in force, **11:18**
 statutory history, **11:18**
 Canadian Charter of Rights and Freedoms, **3:29**
 Captive audience, **3:29, 11:16**
 Common law regulation, **11:10**
 Common situs picketing, **11:15**
 Communicating information vs. persuading, **11:11**
 Consumer leafleting, **3:29, 11:10, 11:12, 11:15, 11:17, 11:18**
 Control by criminal contempt, **11:11**
 Courts' subversion, **11:12**
 Criminal liability for restraint of trade, **11:11**
 Economic torts
 caveats, **11:13**
 civil conspiracy, **11:13**
 inducing breach of contract, **11:13**

PICKETING—Cont'd

Economic torts—Cont'd
 interference with economic relations, **11:13**
 no action provision, British Columbia, **11:13, 11:15**
 reasoning obscure, **11:13**
 unlawful interference, **11:13**
 Freedom of speech, **3:29, 11:15**
 Free speech, **3:29, 11:9, 11:15, 11:16**
 General meaning, **11:10**
 Hot declaration as picketing, **11:18**
 Injunctions
 see REMEDIES
 Lawful picketing, communication involves persuasion, **11:14, 11:15**
 Legalizing, **14:20**
 New Brunswick
 secondary picketing, **11:15, 11:20**
 Newfoundland and Labrador
 secondary picketing, **11:15, 11:20**
 Obstruction, delay allowed, **3:29, 11:16**
 Ontario
 courts, **11:9**
 related employer, **11:20**
 secondary employers and customers, **11:20**
 signal effect, **11:20**
 statutory provisions, **11:9, 11:20**
 Peaceful, **11:14, 11:15**
 Combination Amendment Act, **1:2**
 legalization of, **1:2**
 Personal residences of employer representatives, at, **11:9, 11:15**
 Persuasion by rational appeal, **11:11**
 Secondary
 ally vs. common situs, **11:15**
 Canadian Charter of Rights and Freedoms, **3:29, 11:15**
 common law re, struck down, **11:18**
 legal confusion about, **11:15**
 overruled, **11:15**
 right to trade paramount, **11:15**
 work normally performed by striking employees, **11:15**
 Signal effects, **11:15**
 Traditional torts, **11:12, 11:13**
 assault or negligence, **11:12**
 defamation, **11:12**
 intimidation, **11:9, 11:12**

PICKETING—Cont'd

- Traditional torts, **11:12, 11:13—Cont'd**
 - nuisance, **11:12**
 - property, interference with use, **11:9, 11:12**
 - secondary picketing, **11:12, 11:19**
 - threats, **11:9, 11:12**
 - trespass, **11:12**
- Unfair employer declarations, **11:2**
- United States, **3:29**
- Unsafe work complaints, as a source of, **5:17**
- Vehicle interference, **11:12, 11:16**
- Videotaping/Internet posting, **11:14**
- With or without strike, **11:10**

POLICE

- Constitutionality of changes to compulsory interest arbitration, **2:11, 3:25**
- Constitutionality of prohibiting changes to police uniforms as a form of protests, **3:25, 3:28, 10:4**
- Employees, special status, **6:13**

POST OFFICE

- Jurisdiction, subcontractors, **3:13**
- No relationship required, **3:13**

PRINCE EDWARD ISLAND

- Certification votes, **2:10**
- Conciliation officers, **2:10**
- Construction industry, **2:10**
- First agreement arbitration, **2:10, 10:45**
- Industrial Relations Act, **2:10**
- Interference with union representation, **10:4**
- Judicial Review Act, **4:22**
- Labour Act, **2:10**
- Labour board, powers and procedures, **2:10**
- Salary reopener clause, **2:10**
- Seasonal businesses, **2:10**
- Strikes, cessation of employment, **2:10**
- Trade Union Act, **2:10**
- Unfair labour practice reverse onus, Charter of Rights, **2:10**

PRIVATIVE CLAUSES

- Alberta Labour Relations Code, **4:2**
- Arbitral processes, **4:2**
- British Columbia
 - constitutional constraint, **3:17**

PRIVATIVE CLAUSES—Cont'd

- British Columbia—Cont'd
 - former provision, **4:2**
- Canada Labour Code, **4:2**
- Constitutional restraint, **4:2**
- Construing of, **3:17**
- Error of law vs. jurisdiction, **3:17, 4:2**
- Finality clauses, **4:2, 4:8**
- In face of clear error, **4:3**
- Limits, **3:17**
- Non-constitutional issues, **3:17**
- Rationale, **4:4**
- Relevance, **4:9, 4:19**
- Restrictions of, **4:1**
- Strict construction, **4:1**
- Subjective judicial opinion, **4:1**

PROCEDURAL FAIRNESS

- See NATURAL JUSTICE

PROFESSIONALS

- Collective bargaining, access to, **6:10**
- Employees, excluded from, **6:10**
- Managers, effective control test, **6:3**

PROPERTY RIGHTS

- See EMPLOYER PROPERTY RIGHTS

PROVINCES

- Employment, jurisdiction in field of, **1:2**
- Uniform legislation, **1:4**

PUBLIC SERVICE

- Labour boards, jurisdiction over, **5:18**

PUBLIC UTILITIES

- Defined, early legislation, **1:2**

QUEBEC

- Access to information, **2:11**
- Administrative Labour Tribunal, **2:11**
 - delay, **5:14**
 - enforcement, **5:15**
 - interim orders, criteria, **10:39**
 - rules of evidence and procedure, **5:10**
 - vexatious matters, summary disposition, **5:8, 5:9**
- Arbitration, **2:11**
- Bargaining unit fragmentation policy, **7:10, 7:19**
- Certification procedures, **5:7, 7:24**
- Charter of Human Rights and Freedoms, **3:18**

INDEX

QUEBEC—Cont'd

- Collective Labour Agreements Extension Act, **2:11**
- Conciliation officers, pre-strike report, **2:11**
- Constitutionality of back-to-work legislation, **3:25**
- Constitutionality of changes to compulsory interest arbitration, **2:11, 3:25**
- Constitutionality of prohibiting changes to police uniforms as a form of protest, **3:25, 3:28, 10:4**
- Construction industry
 - building commissioners, **2:11**
 - commission's jurisdiction, **2:11**
 - compulsory province-wide bargaining, **2:11**
 - constitutionality, **3:27**
 - juridical extension of agreement, **2:11**
 - freedom of association, protection of, **2:11**
 - trade union referrals prohibited, **2:11, 15:14**
- Construction Industry Labour Relations Act, **2:11**
- Decertification, **9:3**
- Employee, defined, **6:3, 7:24**
- Employee associations, certification, **2:11**
- Employer, true, **6:6**
- Employer property rights, **10:8**
- Employment agency employer status, **6:6**
- Essential services
 - council procedure, **2:11**
 - designation procedure, **2:11, 11:30**
- Essential services, council procedure, **2:11**
- Farm workers, **2:11, 3:26, 6:12**
- Injunctions/stays, **4:25**
- Labour board, abolition, **2:11**
- Labour Code, **2:11**
- Labour Court, **2:11**
- Labour Relations Act, **2:11**
- Managerial exclusion, **3:26, 6:3**
- Membership evidence, **7:25, 7:50**
- Municipal sector, **2:11**
- Notice to bargain/timing of strikes, **11:2**
- Psychological harassment, prohibition against, **2:11**
- Public and parapublic sectors, **2:11, 11:30**

QUEBEC—Cont'd

- Regulatory structure, administrative and legal, **5:4**
- Representation votes
 - employee contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
- Sale of business, **4:7, 8:3, 8:4, 8:8**
- Successor rights, **2:11, 4:7, 8:4, 8:8**
- Successorship, defined where part of business transferred, **2:11**
- Unions
 - certification, **2:11**
 - employer domination, **6:7**
 - employer interference, **10:4**
 - Professional Syndicates Act, **2:11**
 - recognized vs. certified, **2:11, 7:52**
 - successor rights, **14:9**

RACE

- Charter rights, exclusions, **3:26**

RAID

- See TERMINATION OF BARGAINING RIGHTS

RAND FORMULA

- Elements of, **14:5**

RATIFICATION VOTES

- Colleges Collective Bargaining Act (Ont.), **11:25**
- Not required, **11:25**
- Separate strike and ratification votes, **2:5, 2:9, 11:25**

RECONSIDERATION

- See LABOUR BOARDS

RELATED BUSINESSES

- See EMPLOYERS

RELATED EMPLOYERS

- See EMPLOYERS

RELIGION

- Charter rights, **3:34**
- Exemptions
 - Canada board test, **14:7**
 - competing values, **14:7**
 - confined to collective agreements, **14:7**
 - criteria for beliefs, **14:7**
 - due to charity in lieu, **14:7**
 - labour board's discretion, **14:7**
 - meaning of religious, **14:7**

RELIGION—Cont'd

Exemptions—Cont'd

- objection, all vs. particular union, **14:7**
- objection to some vs. all union activities, **14:7**
- religious vs. ideological, **14:7**
- religious vs. moral, social or political, **14:7**

Union membership, objection to, **2:13**

REMEDIES

See also CANADIAN CHARTER OF RIGHTS AND FREEDOMS

Access orders, **10:44**

Apology, **10:43**

Arbitration remedy in bad faith bargaining, **10:48**

Arbitrator, remedial powers of, **12:19**

Bargaining, binding dispute resolution, **10:46**

Certainty and predictability, **10:28**

Certificate, **7:62 to 7:69, 10:49**

Certification, **7:62 to 7:69, 10:49**

Collective agreement, **10:24, 10:47, 10:48**

Compensatory vs. punitive, **10:1**

Courts, **11:8, 11:9, 12:19**

Damages

see DAMAGES

Declarations, **10:51**

Deterrence, **10:28**

Disclosure, **10:26**

Discretion, **10:29**

Enforcement, **10:53**

Exhaustion of internal union remedies, **10:33**

Fairness and compensation, **10:28**

Fair representation complaints, **10:50, 13:19**

First agreement arbitration

Alberta, **10:47, 10:49**

British Columbia, **10:47, 10:49**

Canada Labour Code, **10:47**

concurrent decertification, **10:47**

jurisdiction, **10:47**

Manitoba, **10:47**

New Brunswick, **2:6, 10:47**

Newfoundland and Labrador, **10:47**

normal result, **7:62**

Nova Scotia, **10:47**

Ontario, **10:47**

REMEDIES—Cont'd

First agreement arbitration—Cont'd

Prince Edward Island, **2:10, 10:45**

purpose of, **10:47**

Quebec, **10:47**

Saskatchewan, **10:47**

single-day hearing, **10:47**

triggering (access), **10:46**

voluntarism preferred, **10:47**

Grievance arbitration

during collective agreement, **11:22**

individual employee, sanctions, **11:22**

Importance, **10:38**

Imposed collective agreement, **10:40**

Injunctions

attempt at balance, **11:16**

constitutional consideration, **11:9,**

11:15, 11:21

constraints, **11:21**

courts, **10:32, 11:8, 11:9, 11:12, 11:16,**

11:21, 12:19

discretion, **11:23**

interim relief, **10:39**

interlocutory, **4:25**

labour boards, issued by, **10:38, 10:39**

limits on picketing, **4:25, 11:9, 11:15,**

11:16, 11:19, 11:21, 11:23

partial injunctions, **11:16**

purpose of, **11:21**

serious question test prevails, **4:25**

stays, **4:2, 4:23, 4:25**

strong prima facie test, **4:25, 11:21**

types, **11:21**

Weber, **11:9, 12:19**

Interest on monetary losses, **10:41**

Interim relief, **10:39**

Judicial deference to board's expertise, **10:1**

Labour board

consent to prosecute, **11:23**

cost to attend, **10:42**

discretionary, **11:23, 11:25**

enforcement, **11:23**

interim orders, **10:39**

labour relations policy vs. precedent, **11:23**

mandatory orders, **10:46**

Ontario policy directions, **11:23**

overtime bans, **11:23**

Natural justice, **10:40**

REMEDIES—Cont'd

- New location, names and preferences, **10:45**
- Nominal damages, **10:42**
- Orderly recall of employees after prolonged strike, **10:46**
- Plant shut-downs, relocation orders, **10:45**
- Posting, publishing and mailing declarations, orders and decisions, **10:43**
- Preliminary issues, **10:3**
 - consent of Minister of Labour, **10:30**
 - deferral to arbitration and other tribunals, **10:31**
 - exhaustion of internal trade union remedies, **10:33**
 - jurisdiction of courts, **10:32**
 - naming individuals, **10:36**
 - not identifying parties, **10:37**
 - obligation to inquire, **10:23**
 - settlement activity, **5:7, 10:35**
 - standing, **10:37**
 - time limits, **10:34**
- Principles, **10:40**
- Punishment vs. deterrence, **10:28**
- Punitive purposes, **10:40, 10:42**
- Qualities of, **10:28**
- Realities of workplace, **10:40**
- Reinstatement, **10:40, 10:42**
- Settlement encouraged, **10:35**
- Socio-political values, **10:28**
- Subsequent agreement arbitration, **2:5, 10:48**
- Time-limits, **10:34**
- Trusteeship
 - power of board to intervene, **14:2**
 - power of court to intervene, **14:31**
- Unfair employer declarations, **11:2**
- Unfair labour practices, **10:41 to 10:51**
- Union members
 - see MEMBERSHIP
- Union practices, **10:50**
- Union recognition at relocation site, **10:45**
- Union unfair labour practices, **10:50**
- Unlawful strike, damages, compensatory vs. punitive, **11:22**

REPRESENTATION VOTES

- Alberta, **7:24, 7:26**
- Authority, **7:53**
- Ballots, when counted, **7:53**
- Ban on propaganda, **7:53**

REPRESENTATION VOTES—Cont'd

- Build-up principle, **7:53, 7:58**
- Campaign content, **7:53, 10:4, 10:20**
- Casual employees, **7:53**
- Changes to bargaining unit, impact, **7:2, 7:53**
- Custody of ballot box, **7:53**
- Discretion for other votes, **7:53**
- Displacement application, **7:53**
- Electioneering, limits on, **7:53, 10:20**
- Electronic and telephone voting, **5:7, 7:53**
 - union access to voter contact information, **7:53**
- Eligibility to vote, **7:53**
- Eligible voters, majority of, **7:53**
- Employees contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
- Employees eligible, **7:53**
- High standard but not perfection, **7:24**
- Mail-in ballot, **5:7, 7:24, 7:53**
- Majority, votes eligible vs. votes cast, **7:53**
- New Brunswick, **7:53**
- Nova Scotia, pioneer of “speedy” votes, **7:53**
- Percentages to trigger
 - board discretion, **7:53**
 - displacement, **7:53**
 - provincial variations, **7:53**
 - rehearing if employees trade union members, **7:53**
- Pre-hearing vote, **7:53**
- Procedure
 - deference, **7:24, 7:53**
 - multiple option ballot, administration, **7:53**
 - provincial variations, **7:53**
 - speed, **7:24, 7:27, 9:2**
- Proof in lieu of, **7:52, 7:53**
- Proxy voting prohibited, **7:53**
- Saskatchewan, **7:24, 7:53**
 - agent discretion, **7:24**
- Seasonal work status, **7:53**
- Secret ballot, **7:53**
- Setting aside, **7:53**
- Silent period, **7:53**
- Threats to job security, chilling effect, **7:62**
- Threshold issues notwithstanding, **7:53**

REPRESENTATION VOTES—Cont'd

- Unfair labour practice dismissal, right to vote, **7:53**
- Union mergers, **14:14**
- Unreliable membership evidence, **7:53**
- Validity
 - danger of packing, **7:53**
 - requirements, **7:53**

REVOCATION

- See DECERTIFICATION; TERMINATION OF BARGAINING RIGHTS

SALE OF BUSINESS

- See also CONSTRUCTION INDUSTRY
- Amalgamation, **8:2**
- Application delay, **8:2, 8:6**
- Asset sale compared, **8:2, 8:3**
- Automatic, save for consequential issues, **8:2**
- Balance interests, **8:2**
- Bankruptcy and insolvency, **8:2**
- Bargaining unit review, **8:1, 8:5**
- Building services, **8:4**
- Change of business methods compared, subcontracting, **8:4**
- Client records, **8:4**
- Commercial agreements revised, **8:3, 8:4**
- Competition Bureau ordered divestiture, **8:2**
- Construction industry, skill and reputation, **8:2, 15:10**
- Contracting in and out closure, **8:4**
- Contracting to avoid collective agreement, **8:4**
- Deemed transactions, **8:2, 8:4**
- Delay, **8:2**
- Delay, abuse of process, **8:2**
- Delay, application, **8:2**
- Duty of fair representation, **13:2**
- Dynamic interpretation of tests, **8:2**
- Employee wishes, **8:5**
- Expropriation, **8:2**
- Fact driven, **8:2**
- First collective agreement, imposed, **8:1**
- Franchises, **8:2**
- Going concern, **8:2**
- Goodwill in location, **8:2**
- Government intervention, compared, **8:2**
- Hiatus, operational, **8:2**

SALE OF BUSINESS—Cont'd

- Intermingling
 - collective bargaining fragmented, **8:5**
 - collective bargaining solution promoted, **8:5**
 - functional integration, **8:14**
 - large disparity test, **8:5**
 - occurrences, **8:5**
 - seniority, **7:18, 8:5**
- Intra-corporate transfer, **8:2**
- Inventory and accounts receivable, **8:2**
- Investment by key operator, **15:10**
- Judicial sale, **8:2**
- Key person analysis, **8:2, 15:10**
- Know-how, **8:4**
- Labour board determination of, **8:1**
- Licences, **8:2, 8:3**
- Mergers, **8:2, 8:5**
- Nexus and transfer, **8:2**
- No extension of bargaining rights, **8:1, 8:6**
- Non-union business acquired, **8:5**
- Non-union purchaser, **8:5**
- Obligation to employ, **8:3, 8:4**
- Part of
 - continuation of business, **2:11, 8:3**
 - Quebec, **8:2 to 8:4, 8:8**
 - right to stay with vendor, **8:3**
- Production hiatus, **8:2**
- Public sector, **8:2, 8:5**
- Public to private sector, **8:5**
- Receivership, **8:2**
- Relevant factors, **8:2**
- Reorganization, **6:6, 8:2**
- Representation vote, **8:5**
- Rescission of, **8:1**
- Retendering, **8:3, 8:4, 8:7, 8:9, 8:10**
- Shut-downs, **8:2**
- Standing, **8:9**
- Statutory definition, **8:2**
- Subcontracts, **8:3, 8:4, 8:7, 8:9, 8:10**
- Substantial change in nature resulting, **8:10**
- Substantial renovation, **8:2**
- Successorship policies, **8:2**
- Tests, **8:2**
- Through intermediary, **8:2**
- Transfer between jurisdictions, **8:5**
- Transfer of assets vs. job functions, **8:4**
- Transfer of essential elements, **8:2, 15:10**

INDEX

SASKATCHEWAN

- Abuse of process, certification, **7:58**
- Bargaining units
 - one employee, **7:2, 7:3**
- Collective agreements
 - arbitration of disputes, **2:12**
 - legislatively deemed provisions, **2:12**
 - mandatory through union, **2:12**
 - rights on expiry, **2:12**
- Construction industry, **2:12**
- Dispute settlement procedures, **2:12**
- Duty to bargain, out-of-scope positions, **10:23**
- Employee, defined, **6:3**
- Employer freedom of speech, **10:9**
- Essential services, **2:12**
- Hiring boycott, **11:2**
- Injunctions, ex parte, **2:12**
- Jurisdiction
 - internal trade affairs, **14:27**
- Labour board, powers, **2:12**
 - production, **5:8**
- Strikes
 - benefits, **2:12**
 - prohibition of, health care and during elections, **2:12**
 - return to work protocol, **2:12**
 - vote on employer's offer, **2:12**
 - votes, **2:12**
- Successorship
 - federal to provincial transfer, **2:12**
 - franchises, **8:2**
 - service employees, **2:12**
- Summary dismissal process, **5:9**
- Technological change, **2:12**
- Trade Union Act, **2:12**
- Trade unions
 - defined, **6:7**
 - denial of justice, **14:27**
- True employer, **6:6**
- Unfair labour practices, **2:12**
- Union dues, check-offs, **2:12**
- Unions
 - certification, **2:12**
 - majority support, **2:12**
 - prohibition of coercion, **2:12**
 - successor rights, **2:12**

SCHOOL BOARDS

- See TEACHERS/SCHOOL BOARDS

SECURITY GUARDS

- Employees, potential conflicts, **6:8**
- Federal vs. provincial provisions, **6:8**
- Meaning of, jurisprudence, **6:8**
- Special provisions, **6:8**

SEX

- Charter rights, exclusions, **3:26**

SEXUAL HARASSMENT

- Prohibition of, legislative base, **2:2**

STATE IMMUNITY

- Limits of, **3:35**
- Mexican workers, **3:35**
- U.S. Defense Contract Management Agency, **3:35**
- U.S. naval base, **3:35**

STATUTORY FREEZES

- See FREEZES

STRIKES

- Arbitral jurisdiction, **11:23**
- Before impasse, duty to bargain, **10:27**
- Boycotting new vacancies, **11:2**
- Boycotting promotional training system, **11:2**
- Charter rights, exclusivity, **3:27**
- Closure as result of, unfair labour practices, **10:6**
- Conflict of interest restrictions, **3:26**
- Constitutional rights, **3:25**
- Consumer leafleting, **11:12**
- Continuation of employment
 - just cause, **11:4, 11:24**
 - no right if no work, **10:7**
 - right to displace, **10:7**
 - right to reinstatement, **10:7, 11:4**
 - statutory bases, **10:7**
- Cooling-off period, provincial variations, **2:13, 11:26**
- Defined
 - common understanding and activity, **11:2**
 - element of purpose, **11:2**
 - hot cargo clauses compared, **11:2**
 - objective and subjective elements, **11:2**
 - obstruction of workers and strikes, **11:2**
 - picket line exception, British Columbia, **11:2, 11:3**
 - political protest, **6:14, 11:2**

STRIKES—Cont'd

Defined—Cont'd

refusal to abide by last offer vote, **11:2, 11:27**

refusal to dispatch, **11:2**

refusal to do work, **11:3**

refusal to perform extracurricular activities, **6:14, 11:2**

refusal to refer, hiring hall, **11:2**

refusal to work overtime, **11:2**

right to refuse struck work, **11:2**

Essential service agreements, **11:30**

Frequency and severity, 19th century, **1:2**

Hot collective agreement provisions, **11:2**

Hot declarations, **11:18**

Labour board remedies, **11:23**

Legal, conciliation as precondition, **1:2**

Legalizing, **14:20**

Mandatory mediation, **11:26**

Notice, **11:25**

Protections, **11:4**

Provincial variations

resolution techniques, **2:13**

secret ballots, **2:13**

Refusal to cross picket line, **11:3**

Replacement workers, **10:7**

Right to strike

common law, **3:25, 11:4**

constitutional, **3:25**

crystallization of right, **7:55, 11:25**

guarantees, **10:7, 11:4**

restrictions

timeliness, **11:4**

voting requirements, **11:4**

Strikebreakers, statutory prohibitions, **14:6**

Unlawful

generally, **11:2**

arbitral jurisdiction, **11:23**

arbitral remedy, **11:22**

board discretion to file order, **11:8, 11:23**

board dispositions, **11:8**

board powers, British Columbia, **11:8**

court deference, **11:9**

court jurisdiction, **11:6, 11:9**

encouragement, **11:2**

essential services, **11:30**

threats, **11:2**

untimely tiered bargaining, **11:4**

STRIKES—Cont'd

Untimely, **11:2**

Voting

see VOTING

Wildcat, union's responsibilities, **11:2**

SUCCESSORS

See also CONSTRUCTION INDUSTRY

Asset sale compared, **8:2, 8:3, 15:10**

Automatic, save for consequential issues, **8:2**

Bargaining unit review, **8:5**

British Columbia, **8:9**

Concept of, **8:1**

Construction industry, skill and reputation, **15:10**

Continuation of business where part transferred, **2:11**

Continuation of process, **8:1**

Deemed transactions, **8:2, 8:4**

Delay, abuse of process, **8:2**

Employee wishes, **8:5**

Employers, freeze after notice of desire to bargain, **10:13**

Fact driven, **8:2**

First collective agreement, imposed, **8:1**

Going concern, **8:2**

Government intervention, compared, **8:2**

Hiatus, operational, **8:2**

Intermingling, **8:5**

Key person analysis, **8:2, 15:10**

Liability for predecessor, **8:7**

Licences, **8:2, 8:3**

Notice to bargain, **8:1**

Obligation to employ, **8:3, 8:4, 8:7**

Ontario, **8:10**

Public sector, **8:2, 8:5**

Quebec, **2:11, 8:8, 14:9**

Retendering, **8:3, 8:4, 8:7, 8:9, 8:10**

Retroactive order, **8:5**

Rights of

Canada Labour Code, **14:9**

certification vs. ministerial designation, **14:9**

change of name, **14:12**

employee ratification, **14:13**

employer concerns, **14:19**

importance of constitution, **14:13**

Manitoba, **14:9**

merger defined, **14:10**

SUCCESSORS—Cont'd

- Rights of—Cont'd
 - notice, absolute vs. constitutional requirement, **14:15**
 - Ontario, **14:9**
 - predecessor not a union, **14:16**
 - procedural fairness, **14:15**
 - Quebec, **14:9**
 - representation votes, **8:5, 14:14**
 - right to merge distinguished, **14:11**
 - Saskatchewan, **14:9**
 - statutory background, **14:9**
 - substantial completion before recognition, **14:17**
 - substantial compliance, **14:13, 14:17**
 - timeliness, **14:18**
 - trade union status, statutory provisions, **14:16**
 - trade union vs. council of trade unions, **14:16**
 - trends and purpose, **14:8**
- Subcontracting
 - building services, **8:4, 8:10**
 - date of disposition, **8:7**
 - employees, **8:4**
 - employers, **8:4**
 - legitimate subcontract, **8:4**
 - related employer, **8:4, 8:6, 8:7, 15:10**
- Union amalgamation, mergers, transfer, **14:9, 14:33, 14:35**

TEACHERS/SCHOOL BOARDS

- Bargaining structures, **2:9**
- Identity of, definition, **6:14**
- Strikes
 - definitions, **6:14**
 - summer and night schools, **6:14**

TECHNOLOGICAL AND OTHER MATERIAL CHANGE

- Clauses in collective agreement, unfair labour practices protection, **10:6**
- Collective agreement reopened, **12:14**
 - mediation, **12:14**
 - notice, **12:14**
 - remedy, **10:42, 12:14**
 - trigger, **12:14**
- Purpose, **12:14**
- Unfair labour practices
 - as defence to, **10:3**
 - bona fides, **10:5**

TELECOMMUNICATIONS

- Cable installation, maintenance and repair, federal jurisdiction, **3:9, 3:16**
- Cable television, federal jurisdiction, **3:9**
- Consolidation, **3:9**
- Federal jurisdiction, residual power, **3:9**
- Provincially regulated workplace, federal dispute, **3:9**
- Signals, reception and transmission, **3:9**
- Telephones, jurisdiction, **3:9**

TERMINATION

- Entitlement to vote, **9:2**

TERMINATION OF BARGAINING RIGHTS

See also DECERTIFICATION

- Abandonment
 - see ABANDONMENT
- Application
 - during strike, **9:2**
 - status to bring, **9:2**
- Bars to
 - generally, **9:2**
 - bridged collective agreements, **9:2**
 - Canada Labour Code, s. 39(2), **9:2**
- British Columbia, **9:6**
- By certification of other
 - new automatically replaces old, **9:3**
 - notice provisions, **9:3**
- Cessation of union, **9:13**
- Change in business model, **9:6**
- Change of mind, **9:2**
- Collateral ruling, **9:17**
- Construction industry, **9:3, 9:17**
- Counter-petition, **9:2**
- Defensive certification, Quebec, **9:2**
- Delay, **9:2**
- Displacement/raid, **7:4, 7:53, 9:3, 15:6**
- Employees on layoff, status of, **9:2**
- Employer influence, **9:2**
- Employer request, **9:6**
- Entitlement to vote, **9:2**
- Estoppel, in comparison to, **9:8**
- Failure of fair representation, **9:15**
- Failure to give notice or bargain
 - depth of employee support for union, **9:4**
 - employer obstructions weighed, **9:4**
 - overall performance considered, **9:4**
 - response to application considered, **9:4**

TERMINATION OF BARGAINING RIGHTS—Cont'd

- Failure to give notice or bargain—Cont'd
statutory time-limits, **9:4**
- First agreement, delay, **9:2, 9:10, 10:47**
- Fraud
see FRAUD
- Lack of support
 - board's discretion, **9:2**
 - certification bar, **7:59**
 - clarity, **9:2**
 - effect of order, **9:2**
 - employee status, **9:2**
 - employer interference, forms of, **9:2**
 - evidence, **9:2**
 - majority, change of heart of, **9:2**
 - one employee sufficient to apply, **9:2**
 - time-limits for application, **9:2**
 - voluntariness, **9:2, 9:15**
 - who can apply, **9:2**
- Manitoba, **9:2**
- Multi-employer collective agreement, **9:2**
- No agreement after time, **9:7**
- No employees in unit
 - completed construction projects, **9:6**
 - considerations, **9:6**
 - construction industry, **9:6**
 - employer excluded from decertification
process, **9:6**
 - seasonal employment concerns, **9:6**
 - test, **9:6**
- Overview, **9:1**
- Partial raid, **7:4**
- Quebec
 - defensive certification, **9:19**
- Reconsideration by board
 - discretion policies, **9:9**
 - statutory basis, **9:9**
 - termination sections compared, **9:9**
- Replacement workers, status of, **9:2**
- Sale of business, intermingling, **8:5**
- Significant number of employees, **9:15**
- Successorship, intermingling, **8:5**
- Time extension for judicial review, **9:2**
- Timeliness, **9:2, 9:3**
- Trade union request, **9:6**
- Trade union status lost, **9:13**
- Voluntarily recognized agent, labour
board involvement, **9:5**

TERMINATION OF BARGAINING RIGHTS—Cont'd

- Voluntarily recognized unions, first year
 - Alberta, **7:51, 9:5**
 - Canada Labour Code, **9:10**
 - estoppel principle, **9:10**
 - evidence required, **9:10**
 - implied by certification of another, **9:10**
 - onus, **9:10**
 - proof of representation, **9:10**
 - statutory basis, **9:10**

TRADE UNION STATUS

- Constitutional compliance, **6:7**
- Constitutional continuity, **6:7**
- Continuity, **6:7**
- Defined
 - Alberta, **6:7**
 - British Columbia, **6:7, 7:55, 12:2**
 - Ontario, **6:7**
 - Saskatchewan, **6:7**
- Discrimination, **6:7**
- Elements of, **6:7**
- Employee associations, **6:7**
- Employer-dominated prohibited, **6:7**
- Employer support, **6:7, 7:52, 10:4**
- Establishment of, **6:7**
- Financial viability, **6:7**
- Formal provisions, **6:7**
- International, presence in province, **6:7**
- Lost, **9:13**
- Merger of unions, **6:7**
- Name, confusing, **6:7**
- Organization and cohesion, **6:7**
- Poly-party, **6:7**
- Service agreements, **6:7**
- Successorship, **6:7**
- Sweetheart unions, **6:7, 7:58**
- Valid constitution, **6:7**

TRANSPORTATION

- Federal works vs. undertakings, **3:8**
- Interprovincial activity
 - ancillary work, **3:8**
 - federal authority, **3:8**
 - proportion of, **3:8**

TRUSTEESHIP

- American presumption of validity, **14:2**
- Construction industry restrictions, **2:9, 14:2**

TRUSTEESHIP—Cont'd

Extension, test, **14:2**
 Fiduciary duties, **14:33, 14:35**
 Judicial intervention, **14:27, 14:31**
 Just cause requirement, **2:9, 14:2, 14:13**
 Labour board remedial powers, **14:2**
 Meaning of, **14:2**
 Ontario and British Columbia, statement of terms, **14:2**
 Removal from office, **14:2**
 Reporting requirements, **14:2**
 Restrictions, **14:2**

UNFAIR LABOUR PRACTICE COMPLAINTS

See COMPLAINTS

UNFAIR LABOUR PRACTICES

Abandonment of bargaining rights, threat of, **9:8, 10:20**
 Access to e-mail addresses, **10:4**
 Access to employee contact information, **3:27**
 Access to employer property, **10:8**
 Activity against the trade union
 defined, **14:6**
 protection from dismissal, **14:6**
 American style campaign, **10:9**
 Anti-union animus
 crucial determination, **10:3**
 inference, **10:6**
 main or incidental, **10:3, 10:6**
 not advertised, **10:3**
 whether required, **10:2 to 10:4, 10:6, 10:11**
 Apology, purported, **7:66**
 Bargaining directly with employees, **10:4**
 Bargaining in bad faith, **10:21 to 10:27**
 Bargain unit scope
 placement of new positions, **7:17**
 Basic freedoms, **10:1**
 Bifurcation, **10:42**
 Boards' remedial powers, **10:1**
 Bona fide purpose
 abusive union representative, **10:4**
 balancing interests, **10:3, 10:4**
 branch closing, **10:6**
 British Columbia requiring just cause, **10:3**
 business pattern, **10:5**
 closure, **10:6**

UNFAIR LABOUR PRACTICES

—Cont'd

Bona fide purpose—Cont'd
 closure and intermingling, **10:6**
 compelling business purpose, **10:3, 10:4**
 corporate reorganization, dead-end department, **10:6**
 costs of collective agreement, **10:5**
 economic forces vs. arbitrary action, **10:5**
 existing business plan, **10:6**
 relocations, lockout, **10:6**
 sale and relocation, **10:6**
 subcontracting, **10:6**
 technological change, **10:5**
 timing and impact, **10:5**
 versus intent, **10:3, 10:4**
 Breach of settlement, **5:7, 10:19**
 British Columbia
 proper cause for discipline required, **10:3**
 Burden of proof
 mixed onus cases, **10:2**
 Nova Scotia, **10:12**
 reversal, rationale for, **10:2, 10:20**
 Canada Labour Code, declaration of rights, **10:1**
 Canvassing employee strike intentions, **10:4**
 Captive audience, **10:9**
 Ceasing to operate inter-provincially, **10:6**
 Check-off, flagrant disregard of, **10:4**
 Closure, **10:3, 10:4, 10:6**
 Complaints, consent of Minister of Labour, **10:30**
 Continuation of strikers' employment
 refusal, inherently destructive, **10:7**
 refusal to recall on basis of seniority, **10:7**
 Contracting out, **8:4, 10:3**
 Courts, jurisdiction, **10:32**
 Crown immunity, **6:15**
 Deferral to arbitration
 qualifications, **10:31**
 statutory and practice, **10:31**
 Deferral to human rights tribunal, **10:31**
 Defined, **10:1**
 Degree of protection of employees, **10:7**
 Delay in filing, **10:34**

UNFAIR LABOUR PRACTICES**—Cont'd**

- Denial of names/addresses of bargaining unit members, **10:26**
- Derivative rights, union remedy for excluded employees, **10:17**
- Description of, provincial variations, **2:13**
- Discretion to inquire into, **10:29, 10:31, 10:34, 10:38**
- Dismissals
 - board jurisdiction, bankruptcy, **10:32**
 - constructive, treatment of, **10:3**
 - good faith, **10:3**
 - just cause required, **10:3, 10:7, 11:4**
 - technological change, **10:3**
- Duty to bargain
 - see DUTY TO BARGAIN
- Economic conflicts
 - employer's rights, temporarily replacing strikers, **10:7**
 - legislated outcomes or limitations, **10:7**
 - parties' choice of weapons, **10:7**
- Employee protection, **10:2**
- Employer inaction, **10:4**
- Employer preference for a particular union, **10:4**
- Employer property rights
 - see EMPLOYER PROPERTY RIGHTS
- Employer speech
 - see FREEDOM OF SPEECH/EXPRESSION
- Enforcement, **10:53**
- Exclusion from protection
 - constitutional implications, **3:25**
 - agricultural workers, **3:25**
 - freedom of association, **3:25**
- Extra-jurisdictional effect, **10:6**
- Fears of future union activity, **10:3**
- Freeze, breach of, compared, anti-union animus, **10:12**
- Freeze, closure, **10:3**
- Freezes, **10:9 to 10:15**
- General remedial powers
 - ancillary request for damages, **10:40**
 - interests to be considered, **10:40**
 - Newfoundland and Labrador, **10:40**
 - Ontario, **10:38**
- Implied rights
 - declaratory vs. effective sanctions, **10:16**

UNFAIR LABOUR PRACTICES**—Cont'd**

- Implied rights—Cont'd
 - political speech, **10:16**
 - varying interpretations, **10:16**
 - Weingarten rights, **10:16**
- Inducements to cross picket lines, **10:11, 10:27**
- Inference, **10:6**
- Inference vs. balancing of interests, **10:3**
- Interference with witnesses, **10:18**
- Intent
 - circumstantial evidence, **10:3**
 - mixed, **10:3**
 - violation prerequisites, **10:3**
- Interference with union
 - see UNIONS
- Interim order
 - affidavit evidence, **10:39**
 - criteria, **10:39**
 - employer communications, considerations, **10:39**
 - onus, **5:11**
 - preservative interim order, distinguished, **10:39**
- Intimidation, **10:3, 10:9**
- Judicial review, jurisdiction, **10:32**
- Labour boards
 - duties, general complaints, **10:29**
 - duty to expedite, **10:3**
 - duty to expedite proceedings, **5:8**
 - freedom to testify, **10:20**
 - remedial powers, provincial variations, **2:13**
- Lay-offs, factors, **10:3**
- Managerial employees, unprotected, **3:26, 10:17**
- Manipulation of working conditions, **10:9 to 10:14**
- Motive
 - fictional use of, **10:3**
 - time of action, **10:6**
- Naming individuals, **10:36**
- No-reprisal issues, **10:23**
- No-solicitation cases, approach, **10:3**
- Notices and decisions, posting and mailing of, **10:43**
- Offenders, prosecution of, parties, **10:1**
- Ontario, limited balancing of interests, **10:3**

UNFAIR LABOUR PRACTICES

—Cont'd

- Past practice, meaning of, **10:3**
- Prima facie case, **10:29**
- Probationary employees protected, **10:3**
- Professional strikebreakers, legislation against, **10:7**
- Prosecutions
 - consent of labour board, **10:52**
 - historical, **10:52**
 - policy, **10:52**
 - refusal of consent, **10:52**
 - time-limits, **10:52**
- Protection from, employees, employers and unions, **10:1**
- Protection of witnesses, **10:18**
- Raid proofing, **10:4**
- Rectification plan, **10:40**
- Refusal of struck work, protections, **10:7**
- Remedies
 - see REMEDIES
- Replacement workers
 - bargaining unit work, **10:7**
 - British Columbia, **10:7**
 - Canada, **10:7**
 - common employer declaration, **10:7**
 - customers, self-help, **10:7**
 - employer defined, **10:7**
 - essential services exception, **10:7**
 - evidence of use, **10:7**
 - labour board investigation, **10:7**
 - Ontario, **10:7**
 - out-of-province, **10:7**
 - place of operations, **10:7**
 - Quebec, **10:7**
 - rehiring strikers after strike, **10:7**
 - shared work, **10:7**
 - telecommuting, **10:7**
 - use by employer, **10:7**
- Reprisal, **4:9**
- Settlement enforcement, **10:19, 10:39**
- Standing, **10:37**
- Standing to complain, **10:1**
- Statutorily specified, **10:1**
- Statutory freezes, **10:9 to 10:14**
- Striking employees, protections, **10:3**
- Termination of union organizer, **10:49**
- Time limits
 - relief against, **5:14, 10:34**

UNFAIR LABOUR PRACTICES

—Cont'd

- Trusteeship, power of board to intervene, **14:2**
- Unilateral changes of conditions of employment, freezes on, **10:1, 10:3**
- Unilateral out-of-scope transfers, **10:4**
- Union finances, board encouragement of employee involvement, **14:4**
- Union formation interference, confined examination, **10:3**
- Union information requests, **10:4**
- Unions
 - coercion vs. democratic debate, **10:20**
 - discriminatory expulsions/fines, **10:20, 14:27**
 - dual unionism rights, **10:20, 14:6, 14:27**
 - employer support, **10:4**
 - internal matters, **10:11, 10:20**
 - intimidation, **10:20, 14:27**
 - political activity, protection, **10:16, 10:20, 14:6, 14:7, 14:27**
 - prohibitions, general and specific, **10:20**
 - remedy, **10:8, 10:50**
 - standing to bring, **10:20**
 - use of complaints and social media, **10:20**
 - working hours vs. lunch breaks and rest periods, **10:8**
- Union security requirement ignored, **10:4, 12:12**
- Union T-shirts/buttons, **10:4**
- Voluntary recognition agreement, when, **10:4**
- Weingarten rights, **10:4, 10:16**
- Withholding discretionary benefits, **10:3**
- Witnesses' rights, general protection, **10:18, 14:6**

UNION DUES

See DUES

UNION ORGANIZING

- Communications with employees, protected activities, political activity, **10:8**
- Workplace
 - access of union representatives, **10:8**
 - working hours, **10:8**

UNIONS

Actions and motives, related employers, employee rights, **8:6**
 Active promotion of members' interest, time-limits, **9:4**
 Admission of individual, discrimination, **14:27**
 Admission of individual, judicial review, **14:25**
 AFL and CIO, **2:9**
 Anti-corruption, **3:26**
 Audit of financial records, **2:9**
 Bargaining, good faith, **2:13**
 British Columbia, **6:7**
 Canadian Charter of Rights and Freedoms, application of, **3:21**
 Canadian Labour Union, growth of, **1:2**
 Certification
 see CERTIFICATION
 Certified council of unions, **6:7**
 Cessation of, bargaining rights on, **9:13**
 Change of, bargaining rights on, **9:11**
 Coercion vs. democratic debate, **10:20**
 Combinations
 Combination Act, **1:2**
 criminal conspiracy, **1:2**
 Common law, status, **5:1**
 Company-dominated prohibited, **2:1, 6:7, 10:4**
 Competition policy, **14:36**
 Constitution, rules and by-laws, membership contract terms, **14:28**
 dominant concept doctrine, **14:31**
 Constitutional rights, right to join, **3:25**
 Council of unions, **6:7**
 Craft, history of, **7:11, 7:12**
 Decertification
 see DECERTIFICATION
 Decline in density, **1:6**
 Decline in power, **1:6**
 Denial of justice, **14:27**
 Density, Canada and U.S., **1:6**
 Disclosure of officials' salaries, **2:5**
 Disclosure of political expenditures, **2:3, 3:27, 14:4, 14:7, 14:27**
 Discrimination, **6:7, 14:27**
 Due diligence standard, erosion of rights, related employers, **8:6**
 Duties
 check-off regulation, **2:13**

UNIONS—Cont'd

Duties—Cont'd
 fair representation of all employers, **2:2**
 financial affairs, **2:2**
 Employee associations, trade union status as intervenors, **6:7**
 Employer support, **6:7, 10:4**
 Expulsion
 accords with natural justice, **14:27**
 acting in good faith, **14:27**
 authorized by rules, **14:27**
 denial of justice, **14:27**
 dual unionism, **10:20, 14:6, 14:27**
 extension of principles, **14:27**
 just cause, Ontario, **14:2**
 minimum standards of procedural fairness, **14:27**
 unfair labour practice, **14:7**
 wrongful, action sustainable, **14:27**
 Extent of unionization
 Canada and United States, **1:6**
 Filings
 advantage of exacting requirements, **14:3**
 audited financial statements
 components of, **14:4**
 varying obligations, **14:4**
 constitution and by-laws
 labour board power to order, Ontario and Quebec, **14:3**
 provincial requirements, **14:3**
 return to Chief Statistician of Canada, **14:3**
 financial information
 Canada Labour Code, **14:4**
 privileged information, **14:4**
 unions based outside Canada, **14:4**
 financial reporting, United States compared, **14:4**
 financial statements, **2:3, 2:13, 14:4**
 political activity, **14:4, 14:7, 14:27**
 standard of board review, **14:4**
 trusteeships, **14:2**
 Freedom of association, **3:25, 3:27**
 Freedom of speech, **3:28**
 Global economy, impact of, **1:6**
 Globalization, impact of, **1:6**
 Hiring hall referral restrictions, **15:30**
 Hiring hall restrictions, **9:2**

UNIONS—Cont'd

- Interference with
 - assisting with alternatives, **10:4**
 - canvassing employees' strike intentions, **10:4**
 - committee membership, **12:14**
 - concerted campaign, **10:4**
 - condoning interference, **10:4**
 - constructive effect, **10:4**
 - direct employer communications, **10:27**
 - employee associations, extension to, **10:4**
 - employees, public comments, **10:4**
 - employer communications, **10:4, 10:9**
 - employer domination or support, **6:7, 10:4**
 - employer investigation, **10:4**
 - exclusive bargaining agent status, **10:4**
 - foreman, as extension of employer, **10:4**
 - independent contractor agreements, whether, **10:4**
 - infiltration, **10:4**
 - inherently destructive conduct, **10:4**
 - intent vs balancing of interests, **10:3, 10:4**
 - letter to employees, **10:4**
 - notice boards, **10:4**
 - observers at bargaining, **10:4**
 - parent union, by, **14:2**
 - payment of employees' legal costs, **10:4**
 - ratifying tainted actions, **10:4**
 - refusal of access, **10:4, 10:8**
 - refusal of information, **10:4, 10:20, 10:26**
 - representation vote, employer obligations, **10:4**
 - retention of union mail, **10:4**
 - spies, **10:4**
 - standing, **10:1, 10:4**
 - statutory prohibition, **10:4**
 - surveillance, **10:4**
 - threatening organizers, **10:4**
 - unilateral changes to terms of employment, **10:3**
 - unilateral out-of-scope decision, **7:17, 10:22, 10:39**
 - union provided buttons, clothing with insignia, etc., **10:4**
 - union security, **10:4**

UNIONS—Cont'd

- Interference with—Cont'd
 - union vulnerability, **10:9**
 - voluntary recognition agreement, **10:4**
 - Weingarten rights, **10:4, 10:16**
 - witnesses, **10:18**
- Intermingling of employees, two unionized groups, **8:5**
- Internal affairs
 - generally, **14:10, 14:11, 14:13, 14:15**
 - Alberta, **14:27**
 - British Columbia Labour Board, **14:6, 14:27**
 - discrimination, **14:27**
 - fair hearing requirements, **14:27**
 - judicial deference, **14:27**
 - labour board jurisdiction, **14:2, 14:27, 14:32**
 - mediation, **14:2**
 - Ontario, **14:2**
 - right to discipline members, **10:4, 14:34**
 - right to legal counsel, **14:27**
- Invalid executive resolution, **14:31**
- Legal personality
 - actions between members, vs. against union, **14:21, 14:25**
 - as between members, **14:21**
 - confused, jurisdictional ground for intervention, **14:25**
 - early statutory existence, **14:21**
 - entity to be enjoined or liable in tort, **14:21**
 - for the purposes of, **14:21**
 - historic illegality, **14:20**
 - international union entity for damages, **14:21**
 - legality not personality, **14:25**
 - Ontario Rights of Labour Act, **14:22 to 14:24**
 - proceedings against, **14:21**
 - prosecutions against, **14:21**
 - Quebec, incorporation or not, **14:21**
 - regulatory default, **14:25**
 - representative actions
 - communality of interest, **14:23**
 - only way to sue or be sued, **14:23**
 - Ontario Rights of Labour Act, **14:24**
 - requirements, **14:23**
 - split, **14:21**
 - tort liability, **14:21**

UNIONS—Cont'd

- Legal personality—Cont'd
 - trustees for, **14:21**
 - unincorporated associations, **14:21**
 - voluntary unincorporated association
 - deficiencies of concept, **14:25**
 - private social club rules, **14:25**
- Membership
 - see MEMBERSHIP
- Mergers and amalgamations, **14:8, 14:11, 14:33, 14:35**
- Penalizing officials without just cause, **2:9**
- Post-war growth, **1:6**
- Property, **14:33**
- Quebec, **6:7**
- Rates of unionization, **1:4**
- Recognition at relocation site, **10:45**
- Recognized vs. certified, Quebec, **2:11**
- Removal of union officers, **14:2, 14:31**
- Representation votes, mandatory, **2:13**
- Service agreements, **6:7**
- Status, **6:7**
- Successor rights
 - see SUCCESSORS
- Suit against by member
 - breach of contract, **14:25**
 - loss of status, tort offshoot, **14:25**
 - protection of member's property, **14:25**
 - tort, **14:25**
- Suits against employees, **14:33**
- Threats to picket/strike, when unlawful, **11:3, 11:4**
- Trade union status
 - see TRADE UNION STATUS
- Transfer of jurisdiction, **14:11**
- Trusteeship
 - see TRUSTEESHIP
- Unfair labour practices, **10:20, 14:27**
 - Alberta, **10:20, 14:6, 14:7, 14:27**
 - burden of proof, **10:20**
- Union security
 - activity against the trade union,
 - employee dismissal, **14:6**
 - British Columbia power to regulate clauses, **14:6**
 - clause limitation, employee protection, **14:6**
 - closed shop, **14:5**
 - closed shop vs. agency shop, **14:5**
 - constitutionality, **3:25, 3:27, 4:2**

UNIONS—Cont'd

- Union security—Cont'd
 - elements of, **14:5**
 - employer dues deductions, **14:5**
 - finances for picket-line crossers, **14:6**
 - interference with, **10:4**
 - maintenance of membership clause, **14:5**
 - meaning of, **14:5**
 - no union denial if condition of employment, **14:6**
 - religious exemptions
 - see RELIGION
 - statutory clause limitations, duty of fair representation overlap, **14:6**
 - strikebreakers, statutory prohibitions, **14:6**
 - variation of support, **14:5**
 - voluntary check-off, **14:5**
- Wartime recognition, **1:4**

UNION SECURITY

- Alberta, **14:5, 14:7, 14:27**

UNITED KINGDOM

- Historical comparison, **1:2**
- History, unsatisfactory approach, **1:1**

UNITED STATES

- Boycotts
 - secondary, **1:3**
 - prohibited vs. permitted, **11:17**
- Certification, procedure, **7:24**
- Certification without vote, remedial powers, **7:61**
- Civil rights
 - freedom of speech, **3:28**
 - picketing, **3:29**
 - union shop agreement, **3:27**
- Collective bargaining, Clayton Act
 - shelter, **1:3**
- Conciliation, enforced, **1:3**
- Construction industry, jurisdictional dispute board, **15:17**
- Continuation of strikers' employment, no right if no work, **10:7**
- Craft unions, historical protection, **7:11**
- Decline in union growth, **1:6**
- Duty of fair representation
 - collective bargaining, **13:9**
 - development of concept, **13:1**
 - mere negligence, **13:7**

INDEX

UNITED STATES—Cont'd

- Duty to bargain
 - disclosure, unsolicited, **10:26**
 - mandatory/permissive dichotomy, **10:22, 10:23**
 - terms and conditions of employment, **10:23**
- Employer's freedom of speech
 - election interference vs. unfair labour practices, **10:9**
 - employees' economic dependence, **10:9**
 - non-coercive captive audience speech, **10:9**
 - union preference vs. strict neutrality, **10:9**
- Expired collective agreement, grievance procedures, **12:9**
- Final adjustment of collective agreement, **4:16**
- Freedom of association, **3:25**
- History
 - hands-off approach, **1:3**
 - legislative accommodation, **1:1**
- Judicial review, deference to grievance arbitration, **4:16**
- Labour legislation
 - federal vs. state, Canada compared, **1:2**
 - trade and commerce clause, **1:2**
- Manipulation of working conditions, as employer inducement, **10:11**
- National Labor Relations Board
 - election process, **7:24**
- New Deal, **1:3**
- New Deal legislation, **5:1**
- No-solicitation rule, policy objectives, **10:8**
- Proposed Reforms
 - Biden government (2021), **1:6**
 - Obama government (2008), **1:6**
- Rule making, **5:10**
- Strikes, early views, **1:3**
- Trusteeships, regulation of, **14:2**
- Unfair labour practices
 - deferral to arbitration, **10:31**
 - granting or withholding benefits during bargaining period, **10:13**
 - intent, violations, **10:3**
 - shut-down, **10:6**
- Unions
 - constitutionality of trade union agency fees in the public sector, **3:27**

UNITED STATES—Cont'd

- Unions—Cont'd
 - density statistics, **1:6**
 - filing requirements, constitution, by-laws and policies, **14:3**
 - filings, financial information, **14:4**
 - legal personality, states' variations, **14:21**
 - Union security
 - closed shop prohibited, **14:5**
 - restriction of clauses in collective agreement, **14:5**
 - right to work laws, **14:5**
 - Union successor rights, **14:13**
 - Weingarten rights, **10:16**
- ### UNSAFE WORK
- Labour board review, **5:17**
- ### VOLUNTARY RECOGNITION
- Across Canada, **7:52**
 - British Columbia, **7:52, 9:10**
 - Clean hands required, **7:52, 15:7**
 - Construction industry, **15:7**
 - Continuing support required, **7:52**
 - Cross-over clauses, **7:52, 15:7**
 - Employer misrepresentation, **8:6**
 - Ontario, **7:52**
 - Pre-hire agreements, **7:52, 15:7**
 - Representation vote, when, **7:52**
 - Requirements, **7:52, 15:7**
 - Saskatchewan, limitations, **7:52, 15:7**
 - Strike-out provisions, **15:7**
 - Uncertified council of trade unions, **7:52, 15:7**
 - Unfair labour practice, when, **7:52, 10:4**
 - Union misrepresentation, **7:52, 15:7**
 - Union's entitlement to represent, **7:52, 9:10**
 - Validity, **6:7**

VOTING

See also REPRESENTATION VOTES

- Final offer
 - bargaining duty, implications of, **10:24, 11:27**
- bars, **11:27**
- clear offer required, **11:27**
- electronic, **11:27**
- entitlement, when it arises, **11:27**
- entitlement to vote, **11:27**
- extinguished right, **11:27**

VOTING—Cont'd

- Final offer—Cont'd
 - joint bargaining, **11:27**
 - justification to reject results, **4:10, 10:24, 11:2, 11:27**
 - objectives, **11:27**
 - polling of employers, not applicable, **11:27**
 - procedural fairness, **11:27**
 - provincial variations, **11:27**
 - ratification, not applicable, **11:27**
 - requirements, **11:27**
 - unlawful interference, **11:27**
- Lockout
 - generally, **11:25**
 - dualing strike and lockout votes, **11:25**
 - single and multiple employer lockouts, **11:25**
- Ratification, **11:25, 12:2**
- Strike
 - improper exclusion, **11:25**
 - improper interference with, **11:25**
 - internal union affairs, **11:25**
 - precondition, **11:25**
 - requirements, **11:25**
 - supervised by board, **11:25**
 - who is eligible, **11:25**

WAGES

- Freezes, Charter rights, **3:25**

WAR

- End of, ensuing legislation, **1:4**
- Federal jurisdiction during, **1:4**
- Union growth during, **1:4**

WARTIME REGULATIONS

- Beginning of industrial relations legislation, **2:13**

WEBER V. ONTARIO HYDRO

- See also ENFORCEMENT OF COLLECTIVE AGREEMENTS
- Inherent superior court jurisdiction, **12:19**
- Injunctions, **11:9, 12:19**
- Misrepresentation, **12:19**
- Retirees, **4:19**

WOMEN

- See EQUAL OPPORTUNITY

WORKING CONDITIONS

- Freezes
 - after notice of desire to bargain
 - hours of employment, **10:13**
 - job security, **10:13**
 - reasonable expectation approach, **10:13**
 - statutory bases, **10:13**
 - unfair labour practice, **10:13**
 - following application for certification
 - anticipated salary increase, **10:12**
 - business as before, **10:12**
 - Canada Labour Code, **10:12**
 - reasonable expectations of employees, **10:12**
 - statutory intrusion, **10:12**
 - Weber, **12:19**
- Manipulation
 - as employer inducement, **10:11**
 - prevention, purposes of, **10:11**
- Manipulation and freezes, overview, **10:9**

YUKON

- Collective bargaining, federal authority, **3:6**