

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, **15:1, 15:2, 15:8, 15:14, 15:15**
 - bargaining structure consolidation orders, **15:14, 15:15**
- Court of Appeal arbitral review jurisdiction, **3:17, 4:2, 4:16, 4:21, 4:23**
- Decertification, employer-initiated where no employees, **9:6**
- 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**

ALBERTA—Cont'd

- 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**
 - 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**
- Membership evidence, curable deficiencies, **7:44**
- 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**
 - interference with, **10:7**
 - time for, **2:3**
- Termination of bargaining rights, employer-initiated where no employees, **9:6**
- 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**
- 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**
- Exclusive jurisdiction, grievance arbitration, **12:19**
- Expedited procedures, **2:4**
- First-agreement, **10:47**
- Good faith administration of a collective agreement, **12:18**
- Grievance arbitration
 - bench warrants to testify, **12:17**
 - damages, **12:8, 12:19**
 - estoppel principles, application of, **4:19.50**
 - general arbitration, vs., **4:16**
 - human rights enforcement, **12:19**
 - institutionalization of, **4:17**
 - labour board jurisdiction, **12:17, 15:20**
- Human rights enforcement, **3:18, 12:5, 12:19**
- Industrial democracy, **12:15**
- Interest arbitration
 - Charter* issues, **3:25**
 - final-offer-selection, **11:28**
 - mediation-arbitration, **11:28**
 - replication principle, **4:19.50, 11:28**
- Labour board, referral to, **12:17**
- Labour board review, **4:2, 4:16, 4:21, 4:23, 12:17**
- Ministerial appointment, **4:10**

INDEX

ARBITRATION—Cont'd

- Ministerial imposition, federal, **11:28, 11:29**
- Public interest in, **12:4**
- Quebec
 - disclosure requirements, **2:11, 12:18**
 - mediation recommended first, **2:11, 12:6**
 - municipal sector, **2:11, 4:19**
 - pre-hearing conference, **2:11, 12:8**
 - promptness requirements, **2:11, 12:6**
- Referral of an issue to Canada board, **12:17**
- 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**

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**
- British Columbia film industry, **3:19, 3:20, 3:22, 3:25, 4:11, 7:9, 7:14, 7:19, 7:22, 11:31**
- 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**
- Amendments to, **7:17 to 7:19**
- Appropriate bargaining unit, **7:2**
- Bargaining structure, versus, **7:9, 11:31, 15:11**
- British Columbia
 - bargaining unit consolidation, **7:18**
 - bargaining unit criteria, **7:3, 7:22**
 - building cleaning services, **7:18, 7:22, 8:4**
 - difficult to organize, thresholds, **7:7**
 - film industry, **3:19, 3:20, 3:22, 3:25, 4:11, 7:9, 7:14, 7:19, 7:22, 11:31**
 - fragmentation and predictability, **7:4, 7:9, 7:10, 7:22**
 - health authority, bargaining agent anti-proliferation policy, **7:9**

BARGAINING UNITS—Cont'd

British Columbia—Cont'd
 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, **7:16, 7:19, 7:22, 15:3, 15:6**

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**
 competing applications, **7:14, 7:22, 15:6**
 displacement/raid, **7:16, 7:19, 7:22, 15:3, 15:6**
 full-time/part-time, **7:13**
 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**
 meat cutters, **7:7, 7:12, 7:13**
 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**
 discretion of board, **7:13 to 7:16**
 examples of crafts, **7:13**

BARGAINING UNITS—Cont'd

Craft units—Cont'd
 severance—Cont'd
 nature of, **7:13**
 status, impact of technological change,
7:12, 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, **7:3, 7:22**
 Canada Labour Code, **7:9, 7:10**
 carving out, fear of fragmentation, **7:4, 7:19**
 case-by-case, **7:10**
 Charter considerations, **7:8**
 choice of units, employee preference vote, **7:8**
 classifications, functional relationship vs. functional integration, **7:7**
 competing applications, **7:14, 7:22, 15:6**
 criteria
 community of interest, **7:3 to 7:9**
 employee freedom vs. labour harmony, **7:3**
IML factors, **7:3, 7:22**
 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, 7:16, 7:19, 7:22, 7:53, 9:3, 15:3, 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**

BARGAINING UNITS—Cont'd

Determination of—Cont'd
 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**
 similarity of skills, duties and conditions, **7:6**
 statutory limitations, **7:4, 7:9, 15:6**
 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**

BARGAINING UNITS—Cont'd

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, 7:9, 7:23**

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**
 Newfoundland and Labrador, **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. full-time, seven-week rule, **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**

Professionals, for, **6:3, 6:10, 7:9, 7:23**

Related employer, use of, **7:10, 7:22**

Representation votes
 see REPRESENTATION VOTES

BARGAINING UNITS—Cont'd

- 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**
- 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 unit criteria, *IML* factors, **7:3, 7:22**
- Bargaining units, consolidation, **7:18, 7:22**
- Build-up principle, **7:53, 7:59**
- Card-based certification, **2:4, 7:24, 7:25, 7:53, 7:56**
- 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**
- Confidential capacity exclusions, **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**
- Federal pickets, **2:4**
- Film industry
 - industry-wide bargaining, **3:19, 3:20, 3:22, 3:25, 4:14, 7:9, 7:14, 7:19, 7:22, 11:31**
 - safe harbour provision, Charter compliance, **3:25**
- Grievance procedures, **2:4**
- Health Authorities Act, **11:31**
 - health authority, bargaining agent anti-proliferation policy, **7:9**

INDEX

BRITISH COLUMBIA—Cont'd

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 and province-wide negotiations, **3:19, 3:22, 3:25, 3:29, 4:11, 7:9, 7:14, 7:19, 7:22, 11:31**
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**
powers, **2:4**
reconsideration, **5:13**
review of arbitrators, **4:2, 4:16, 4:21**
voluntary recognition, **7:51**
Labour Relations Code, **2:4**
Leafleting, **3:29**
Managerial exclusions, **6:3**
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**

BRITISH COLUMBIA—Cont'd

Public interest—Cont'd
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**
Secondary picketing restrictions, **3:29, 11:18**
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**
Unfair labour practices
anti-union animus, ETL factors, **10:3**
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**

BUSINESS—Cont'd

- 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

- Certification procedures, **7:24**
- Duty to bargain, remedies, **10:40, 10:48**
- Employer, true, **6:6**
- Intervenors, **5:8**
- Managers
 - beyond mere direction/evaluation, **6:3**
 - supervisors distinguished, **6:3**
- Membership evidence, **7:46**
- Other responsibilities, **5:16 to 5:19**
- Reconsideration, **5:13**
- Remedial certification, **10:49**
- Supervisors
 - as employees, **6:3**
 - bargaining units, **7:9**
- Unreasonable search and seizure, **3:19, 3:20, 3:31, 3:32, 4:19.50**

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**
- Arbitral referral of an issue to Canada board, **12:17**
- Arbitration, referral to labour board, **12:17**
- Bankruptcy, **2:2, 8:2**
- 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**

CANADA LABOUR CODE—Cont'd

- 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**
 - mischaracterization prohibited, **2:2**
 - onus, **2:2**
 - presumption, **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**
- Longshoring, **3:7, 7:23**
- 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**
- Section 107 direction imposing interest arbitration, **11:29**
- Sexual harassment, prohibition of, **2:2**
- Staffing agency, **6:6**
- Strike replacement prohibitions, **2:2, 10:7**
- Technological change, notice provisions, **2:2**
- Time limits, approach, **10:34**
- Unfair practices, complaints, **2:2**
- Union dues, deductions, **2:2**

INDEX

CANADA LABOUR CODE—Cont'd

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**

Build-up principle, **7:59**

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**

municipal defined pension plans
permanently restructured, **2:11, 3:25**

not government action, **3:30**

Collective bargaining, **3:25, 3:27**

constitutional protection, **3:25**

hiring hall regulation, **3:25**

interest arbitration, *Charter* issues, **3:25**

self-employed service providers, **3:25, 3:26**

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**

Decertification where no employees, **9:6**

CANADIAN CHARTER OF RIGHTS AND FREEDOMS—Cont'd

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**

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**

self-employed, imposing the status of, **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**

Film industry, safe harbour provision, **3:25, 7:14**

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**

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

Government action—Cont'd
 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**
 government inaction not action, **3:19, 3:26, 3:31, 3:32**
 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, 4:19.50**
 underinclusiveness, **3:19**
 universities, **3:19**

Hiring hall regulation, **3:25**

Interest arbitration, right to, **3:25, 3:26**

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, 3:31**

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, **3:19, 3:20, 3:32**

Mandatory retirement, **3:19, 3:22, 3:26, 3:30**

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**

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

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**

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**
 good governance defence, **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**

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

- Scope—Cont'd
 - 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**
- Standards of review, **3:25, 3:26, 4:11**
- Standing, **3:19 to 3:21**
- Statutory interpretation
 - application, **3:19**
 - Charter values, **3:19, 3:20, 3:22, 4:10, 4:11, 5:5, 11:3**
 - international conventions, relevance, **1:5**
- 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 restraints, **3:25**
- Wage rollbacks, **3:25**

**CANADIAN INDUSTRIAL RELATIONS
BOARD**

- Arbitration, referral to labour board, **12:17**

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, **7:53, 7:59, 15:6**
 - employer-dominated unions, **7:58**
 - following failure, **7:58**
 - human rights discrimination, **7:58**

CERTIFICATION—Cont'd

- Bars to—Cont'd
 - 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, 7:25**
- Certificate spent, **7:17, 7:18**
- Construction industry, **15:6, 15:7**
 - loss of, **15:6**
 - Nova Scotia, **5:9**
 - Quebec, **5:7**
- Date of application, significance, **7:24, 7:25, 7:53, 15:6**
- Disclosure, right of, **3:28**
- Discretion, **7:2**
- Dismiss, express jurisdiction to, **7:43**
- 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**
- Employee opposition, **7:26**
- Fraud, **7:36, 7:46, 9:16**
- Health sector (Manitoba)
 - appropriate decision-maker, **7:9**
- Interim, Canada, **7:61**
- Interim, Manitoba, **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, **5:8, 7:24**
- Order, ongoing effect, **7:17**

CERTIFICATION—Cont'd

- Organizing assistance, list of employees, **7:24**
- Procedure
 - absent employees, **7:24, 7:25, 7:53**
 - 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, 7:25**
 - contemporaneous representation applications, **7:55**
 - date of application, significance, **7:24, 7:25, 7:53, 15:6**
 - decisions without formal hearing, **5:7 to 5:9, 7:24**
 - delivery, **5:8, 7:24**
 - employee eligibility
 - representation vote, **7:53**
 - threshold count, **7:24, 7:25, 15:6**
 - failure to file timely pleadings, **5:8, 7:24**
 - filing and delivery times, relief from, **7:24, 7:55, 15:6**
 - mandatory voting, Alberta, Nova Scotia and Ontario, **7:24, 7:25**
 - notice, **5:8, 7:24**
 - Ontario, time to reconsider, **7:24**
 - procedural fairness, **7:24, 15:6**
 - proof of membership, **7:24**
 - provincial legislation, **2:13**
 - standing, **5:8**
 - 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**
- 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**

CERTIFICATION—Cont'd

- Timeliness—Cont'd
 - 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**
- 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**

COLLECTIVE AGREEMENTS—Cont'd

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, **10:13, 10:14, 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**

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

Grievance arbitration
 access, **12:5**
 arbitral consensus, ignored, **4:19.50**
 arbitrator, **12:6**
 concurrent jurisdiction, **12:19**
 damages, **12:19**
 during, **11:22**
 duty to bargain in good faith, Saskatchewan, **10:21, 12:14**
 exclusive jurisdiction, **12:19**
 human rights incorporated, **3:18, 12:5, 12:19**
 need for, **12:4**
 probationary employees, **3:18, 12:5**
 referring an issue to Canada board, **12:17**

COLLECTIVE AGREEMENTS—Cont'd

Grievance arbitration—Cont'd
 waiver, **4:19.50**
 when inadequate, **12:5**

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

Injunctive relief, **12:18**

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**

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**

COLLECTIVE AGREEMENTS—Cont'd

- Union security—Cont'd
 - 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
- Decline of, **1:6**
- 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**
- Fishing, for, **2:4, 2:6, 2:7**
- 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**
- 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**

COLLECTIVE BARGAINING—Cont'd

- Legislative responsibility—Cont'd
 - 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 EMPLOYERS

See EMPLOYERS

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

CONCILIATION

See also ARBITRATION

INDEX

CONCILIATION—Cont'd

- 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**
 - recommendations, **11:26**
- 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**
 - airport operational support representatives, **3:2, 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, 3:35, 4:2, 5:5**
- Federal declaratory power, **3:9, 3:12**
- Federal undertaking, integral to, **3:4, 3:7**
- Financial institutions, **3:15**

CONSTITUTION—Cont'd

- Human rights law, **3:18**
 - BFOR, **3:18**
 - collective agreements, interpretation, **3:18**
 - compensatory purpose, **3:18**
 - employer and union, joint liability, **3:18**
 - enforcement, *fora for*, **3:18, 12:15, 12:19**
 - quasi-constitutional dimension, **3:18**
 - remedies, **3:18**
 - standard of judicial review, **3:18**
 - summary dismissal test, **3:18**
- Incorporation by reference, **3:2**
- Indigenous peoples and reserves, **3:14**
- Inter-delegation, **3:2**
- 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**
 - Weber's* third-party limitations, **3:17, 12:19**
- 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**
- Longshoring, **3:2 to 3:4, 3:7**
- 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**

CONSTITUTION—Cont'd

- Peace, order and good government
 - Cont'd
 - matter of national concern, **3:11**
- Pith and substance, **3:1**
- Post office, **3:13**
 - drug store retail postal outlet, **3:2**
- Premature challenge, **3:32**
- Prisons, chaplaincy services, **3:4**
- Residual power
 - aeronautics, **3:10**
 - telecommunications, **3:9**
- Sport organizations, **3:2, 6:6**
- Standards of judicial review, **3:25, 3:26, 4:11**
- Standing, **3:31**
- State immunity, **3:35**
- Telecommunications, **3:9**
 - interactive webcasting online, **3:9**
 - media publication distribution by email, **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**
 - integral to, **3:8**
 - interprovincial, nominal amount, **3:8**
- Written and unwritten norms, **3:17, 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, 15:15**
 - Charter* values, **15:14, 15:15**
 - consolidation orders, **15:14, 15:15**

CONSTRUCTION INDUSTRY—Cont'd

- Bargaining structure—Cont'd
 - 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
 - Alberta, **15:14, 15:15**
 - British Columbia, **15:14, 15:15**
 - Quebec, **15:14, 15:15**
 - other industries compared, **15:11**
 - project collective agreements, **15:16**
 - province-wide, effect of, **15:11**
 - 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, 15:22**
 - craft unit, **15:3, 15:5, 15:6**
 - displacement/raid, **7:4, 7:13, 7:53, 9:3, 15:3, 15:6**
 - formwork, **15:22**
 - 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**

CONSTRUCTION INDUSTRY—Cont'd

- Certification, **15:6, 15:7—Cont'd**
 - loss of, **15:6**
 - New Brunswick, **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**
 - New Brunswick, **15:6**
 - severance, **7:13 to 7:15**
 - 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**

CONSTRUCTION INDUSTRY—Cont'd

- 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, **3:25, 13:10, 15:30**
 - 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**
 - 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, **15:27**
 - where area practice and employer's practice conflict, **15:26**
 - damages awarded, **15:28**
 - delay, **15:20**

CONSTRUCTION INDUSTRY—Cont'd

Jurisdictional disputes—Cont'd
 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**
 trade licencing legislation, relevance,
 15:23
 vs. health and safety issues, **5:17**
 Key person analysis, **8:2, 15:10**
 Local union autonomy, **2:9**
 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**

CONSTRUCTION INDUSTRY—Cont'd

Ontario—Cont'd
 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**
 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
 manpower referral system, **3:25, 13:10,**
 15:30
 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**

CONSTRUCTION INDUSTRY—Cont'd

- 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**
 - 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**

CONSTRUCTION INDUSTRY—Cont'd

- Union security—Cont'd
 - 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**
- 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**

CRAFT UNIONS—Cont'd

- 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**
- Grievance arbitration, **12:8**
- Human rights damages, **3:18**
- Legal fees, **10:42**
- Loss of chance, **13:19**
- Mental distress, **10:42**
- Mitigation, **10:42**
- Non-monetary losses, **10:42**
- Prospective losses, **10:42**
- Punitive, **10:42, 12:19**
- Statutory damages, **10:42, 13:19**
- Union liability, **10:42**
- Unlawful strike, compensatory vs. punitive, **11:7, 11:8, 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**
 - strike, lock-out, first agreement, **9:2**
 - timeliness, **9:2**
- Change of mind, **9:2**
- Charter rights, **3:27**

DECERTIFICATION—Cont'd

- Clean hands, **9:8**
- Concurrent first contract claim, **10:47**
- Displacement, **7:53, 9:3**
- Duty of fair representation, applicability, **13:2**
- 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**
- Nova Scotia
 - confidential personal statements instead of petitions, **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**
- Self-representation, accommodating for, **9:2**
- Standing to apply, **9:2**
- Time bars, **9:2**
- Timeliness, **9:2, 9:3**
- 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**
- 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**

INDEX

DEPENDENT CONTRACTORS

—Cont'd

- Status—Cont'd
 - 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**
- Burden of proof, **3:18, 4:19.50**
- Damages, **3:18, 4:19.50**
- 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

- Alberta, disclosure of and consent to political expenditures, **2:3, 3:27, 14:7, 14:27, 14:35**

DUES—Cont'd

- Deduction of
 - contribution to charity, **2:2**
 - requirement, **2:2**

DUTY OF FAIR REPRESENTATION

- Abuse of process, **13:5**
- 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**

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

Canada Labour Code
 guarantee of objectivity, **13:5**
 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**

Collateral attack, **13:5, 13:6**

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**

Courts, historical jurisdiction of, **13:1,**
13:2

Critical employee interests, **13:6, 13:8**

Decertification, duty's applicability, **13:2**

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

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

Employee—Cont'd
 credibility, **13:6**
 failure to co-operate, **13:6**
 not member of unit, **13:2**
 retirees, **13:2**
 right to grievance arbitration, **13:8**
 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**

Labour boards, exclusive jurisdiction of,
12:19, 13:1, 13:2

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**

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

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**
 Nova Scotia, **13:1**
 Ontario, **13:1**
 Onus, **13:13**
 Other fora, **13:2**
 Pension plan, **13:2**
 Pleading, required, **13:16**
 Poor communication, **13:6**
 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, **13:2,**
 13:5, 13:6, 13:8
 Probationary employees, **12:5, 13:6, 13:8**
 Procedural issues
 deferral, **13:15**
 delay/prematurity, **5:14, 10:34, 13:11**
 discretion, **10:29, 13:6, 13:14**
 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**
 carriage of grievance restructured,
 13:19
 choice and payment of counsel, **13:19**
 cooperation directed, **13:19**
 damages, loss of chance, **13:19**
 declaration, **13:19**
 deferral to arbitration, **13:15**

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

Remedy, et seq., **13:19**—Cont'd
 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**
 referral to independent investigator,
 10:24, 13:19
 retain jurisdiction, **13:19**
 standing granted to bring a successor
 rights application, **13:19**
 statutory damages, **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,
 13:1 to 13:3
 Second-guessing negotiators, **13:9**
 Self-represented, challenges of, **13:16**
 Settlements, **13:6**
 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**
 Termination of bargaining rights, duty's
 applicability, **13:2**
 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

DUTY TO BARGAIN—Cont'd

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**
 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**
 Delay, intentional, **10:24**
 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**
 employee contact information, **10:26**
 employee terms and conditions of employment, **10:26**
 limits of, **10:26**
 privacy issues, **10:26**
 purpose of, **10:26**
 redaction of sensitive commercial information, **10:26**
 solicited, **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**

DUTY TO BARGAIN—Cont'd

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, 11:28**
 Late proposals, **10:24**
 Media strategy, **10:24, 10:27**
 Misrepresentation, **10:25**
 Negotiations
 Canada vs. United States, **10:23**
 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**
 Procedural impasses, **10:25**
 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**
 Receding horizon bargaining, **10:24, 10:25**
 Refusal to abide by last offer vote, **10:24**
 Refusal to discuss cost of a proposal, **10:24**

DUTY TO BARGAIN—Cont'd

- 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**
- Self-help refusal to bargain, **10:23**
- Subject matter of negotiations, **10:23**
- Sudden change of position, **10:24**
- Surface bargaining, **10:24, 10:47**
- Temporal limits, **10:21**
- Threat of plant closure, **10:24**
- Unilateral change to bargaining structure, **10:24**
- Unreasonable conditions, **10:25**
- Voluntary joint negotiations, withdrawal from, **10:24**
- 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, 6:6, 7:18, 7:53**
- British Columbia, **7:22**
- Business, vested rights in, **8:1**
- Canada Labour Code
 - mischaracterization prohibited, **2:2, 6:2**
 - onus, **2:2, 6:2**
 - presumption, **2:2, 6:2**
- Casual, **7:22**
- Cessation as, strike or lockout, **2:10**
- Common employers, **6:6, 8:6**
- Construction industry, status of a referral, **6:6, 15:6**
- Contracting-in, **6:6, 8:4, 10:6**
- Dependent contractors
 - See **DEPENDENT CONTRACTORS**
- Domestics, status, **6:11**
- Double date principle, **4:9, 7:52**
- Elected union officials, **6:6**
- Eligibility for union membership, provincial variations, **2:13**

EMPLOYEES—Cont'd

- 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**
- Franchises, **8:2, 8:6**
- 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**
- Prisoners as, **6:15**
- Probationary, grievance arbitration, **12:5**
- Public office holder, **6:6**
- Related
 - declaration
 - considerations, **6:6**
 - discretion, **6:6, 8:6**
 - purpose, **6:6**

EMPLOYEES—Cont'd

- 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**
 - multiple related companies, which one of, **6:6**
- 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**
- Cessation of, bargaining rights on, **9:13**

EMPLOYERS—Cont'd

- 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**
 - retroactive, **8:6**

INDEX

EMPLOYERS—Cont'd

Related—Cont'd

- 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**

ENFORCEMENT OF COLLECTIVE AGREEMENTS—Cont'd

- 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, **12:18**
 - 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**
 - personal injury, **12:19**
 - slip and fall, **12:19**
 - strain on labour policy, **12:19**
 - third parties, **3:17, 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**
 - Police services legislation, exception, **12:19, 13:1, 13:2**
 - 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**
- 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**
- Manitoba, **11:30**
- New Brunswick, **11:30**
- Newfoundland and Labrador, **11:30**
- Ontario, **11:30**
- Partial strike, employer's response to, **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**

EVIDENCE OF MEMBERSHIP**—Cont'd**

- Employer opposition
 - British Columbia
 - fraud and intimidation, **7:42**
 - procedures, **7:42**
 - New Brunswick, intimidation, **7:26, 7:48**
 - Ontario
 - card date, **7:27**
 - 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**

INDEX

FARMERS

Employees, exclusions, **3:25, 6:12**

FEDERAL WORKS

Core activity, integral and essential, **3:4**
Defined, **3:2**
Requirements, **3:8**
Works vs. undertakings, **3:8**

FILINGS

See UNIONS

FINAL-OFFER VOTES

See VOTING, final offer

FINANCIAL INSTITUTIONS

Jurisdiction, constitutional basis, **3:15**

FIREFIGHTERS

Constitutionality 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
interference, whether, **3:25**
justification, whether, **3:25**
negotiation impasse, when, **3:25**
Ontario, **3:25**
Quebec, **3:25**
Bargaining unit consolidation, **3:22, 3:25**
Certification, date of application rule, **3:28**
Collective bargaining
hiring hall regulation, **3:25**
interest arbitration, *Charter* issues, **3:25**
self-employed service providers, **3:25, 3:26**
Compulsory interest arbitration, Quebec, changes to, **3:25**

FREEDOM OF ASSOCIATION—Cont'd

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**
self-employed, imposing the status of, **3:26**
underinclusiveness, **3:19**
Freedom not to associate, **3:19, 3:27**
Government executive intervention, **3:25**
Hiring hall regulation, **3:25**
Impossible to achieve, **3:26**
Mandatory dues check-off, constitutionality, **3:25**
Picketing, **3:29, 11:18**
Police protests by uniform changes, prohibition of, **3:25**
Representation votes
employee contact information, entitlement, **3:28, 5:12, 7:53, 10:4**
Safe harbour provision, film industry, **3:25**
Secondary picketing, **3:29, 11:18**
Statutory sale of business provision, **3:27**
Strike notice, reimposed, **4:10**
Trespass, blockades, encampments, **3:29, 11:9, 11:12, 11:21**
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**

FREEDOM OF SPEECH/EXPRESSION**—Cont'd****Employers—Cont'd**

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**
 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**
 Leafleting, **3:29, 11:2, 11:17**
 Manitoba, **3:29, 11:9, 11:12, 11:15, 11:17, 11:20, 11:21**
 Ontario, **10:9**
 Open court principle, **3:28, 5:12**
 Picketing, **3:29, 11:15, 11:18**
 Police protests by uniform changes, prohibition of, **3:28**

FREEDOM OF SPEECH/EXPRESSION**—Cont'd****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**Secondary Picketing, 3:29, 11:18****Strike, 3:25, 3:28****Trade union leaders, 3:28****Trespass, blockades, encampments, 3:29, 11:9, 11:12, 11:21****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**

changes during, presumption of illegality, **10:13**

collective agreement provisions, effect of, **10:12 to 10:14, 10:25**

continuation period, **10:13**

contracting out, **10:26**

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**

FREEZES—Cont'd

- After notice of desire to bargain—Cont'd
 - 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**
- Classifications, new, **10:12**
- Closures, **10:12**
- Compared, **10:13**
- Dismissal for cause, **10:12**
- Duration, **10:14**
- Established practice of salary reviews, **10:12, 10:13**
- Layoffs, **10:12, 10:13**
- Liberal interpretation, **10:13**
- Necessity, defence of, **10:13**
- Overlapping unfair labour practices, **10:13**
- Purpose, **10:12**
- 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**

GRIEVANCES—Cont'd

- 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**
- Exclusivity of grievance arbitration, **12:19**
- 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**
- Quebec
 - disclosure required, **2:11, 12:8**
 - mediation recommended first, **2:11, 12:8**
 - prompt processing to arbitration, **2:11, 12:6**
- 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, **4:10, 5:17**
- Precautionary principle, **5:17**
- Retaliation, **5:17**
- Right to refuse unsafe work, **5:17**
- Suspension of an order, **5:17**
- Voluntary corrective measures, **5:17**

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, 12:19**
- Bona fide occupational qualification, **3:18**
- Burden of proof, **3:18, 4:19.50**
- Constitutional status, **3:18**
- Contractualizing vs contracting-out, **3:18**
- Customary international law, **3:18**
- Discrimination, bar to certification, **7:58**
- Discrimination defined, **3:18, 4:19.50**
- 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 bargaining, **1:6**
- Fire services and other emergency responses-constitutional basis, **3:14**
- First Nations labour code vs. provincial labour code, **3:14**
- Jurisdiction, constitutional basis, **3:14**
- Police services, constitutional basis, **3:14**
- Self-governance, **3:14**
- Unions, band councils, **3:14**

INDIGENOUS PEOPLES AND RESERVES—Cont'd

- United Nations Declaration on the Rights of Indigenous Peoples, **1:2, 1:5, 1:6, 3:14**

INJUNCTIONS

- See REMEDIES

INTEREST ARBITRATION

- Charter* issues, **3:25**
- Imposition beyond first contract, **2:5**
- Police bargaining units in Nova Scotia, and, **2:8**
- Replication principle, **4:19.50, 11:28**
- 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**
 - interpretive aid, **1:5**
- International Labour Organization, membership, **1:5**
 - eight core conventions, **1:5**
- United Nations Declaration on the Rights of Indigenous Peoples, **1:2, 1:5, 1:6, 3:14**

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
 - ambiguity, **4:19.50**
 - apprehended bias, whether to remit, **4:15**
 - arbitral consensus, ignored, **4:19.50**
 - arbitrator vs designated officer, **4:19**
 - assault, **4:19**

JUDICIAL REVIEW—Cont'd

- Arbitration boards—Cont'd
 - Canada Labour Code grievance arbitrators, **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, 4:19.50**
 - Dunsmuir, **4:9, 4:18**
 - employee free-expression, **4:19**
 - estoppel principles, application of, **4:19.50**
 - evidence, past practice, **4:19.50**
 - 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**
 - interest arbitration replication principle, **4:19.50, 11:28**
 - interlocutory decisions, **4:19**
 - interpretation, principles of, **4:19.50**
 - 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, 4:19.50**
 - similar cases, similar treatment, **4:19**
 - specific vs. general question, **4:18**
 - standard of review
 - correctness, **4:10 to 4:15**
 - overview, **4:16**
 - patently unreasonable, **4:10**
 - unification post-Dunsmuir, **4:19**
 - Vavilov, **4:10, 4:19.50**
 - statutory
 - creation of, **4:17**

JUDICIAL REVIEW—Cont'd

- Arbitration boards—Cont'd
 - statutory—Cont'd
 - errors of jurisdiction and law, **4:17, 4:19**
 - no longer relevant, **4:16**
 - staying effect of, **4:25**
 - time limits OLRB, **12:17**
 - waiver, **4:19.50**
- 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**
- Degree of analysis of merits of a decision, **4:7**
- Delay, **4:20 to 4:24**
- Differences of legal opinion, permission of, **4:6**
- Discretion, **4:21 to 4:24**
- 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**

JUDICIAL REVIEW—Cont'd

- 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**
 - deference to, **4:10**
 - discretion, principled exercise of, **4:10**
 - mootness, **4:9, 4:10**
 - power to reconsider, in lieu of appeal, **5:5**
 - reasons required, **4:10, 4:14, 5:10**
 - review of own panels, **4:2**
 - standing, **4:26**
 - staying effect of, **4:25**
 - time limits, relief against, **4:10**
 - unit exclusions, **6:5**
- Labour disputes
 - deferral to labour boards, availability of alternative 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

JUDICIAL REVIEW—Cont'd

- 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**
- 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**

JUDICIAL REVIEW—Cont'd

- Recent restraint of, **11:9**
- Reconsideration, **4:20, 5:13**
- Regulations, *vires* of, **5:5**
- Remedies
 - deference to labour board's expertise, **4:10, 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, 5:5**
 - Alberta, **4:2, 4:16, 4:23**
 - British Columbia, **4:2, 4:9, 4:21**
 - Charter, **3:25, 3:26, 4:11**
 - clarification and new framework, Vavilov, **4:10**
 - Constitution Act, **3:25, 3:26, 4:11**
 - correctness, **4:10 to 4:15**
 - 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**
 - vires* of subordinate legislation, **5:5**
- Standing, **4:26**
- Strikes, board's ambit, **4:6**
- 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**
- 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**

LABOUR BOARDS—Cont'd

- Delays—Cont'd
 - 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
 - Charter* values, **3:19, 3:20, 3:22, 5:5**
 - 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**
 - time limits, relief against, **4:10, 5:14**
- Employer's identity, test for, **6:6**
- Estoppel, **5:11**
- Evidence
 - burden of proof, and, **5:11, 5:12, 10:12**
 - confidential commercial information, **5:12**
 - confidential date of membership, disclosure only by temporal ranges, **5:12, 10:49**
 - confidential, implied undertaking rule, **5:12**
 - expert testimony, **5:11**
 - hearsay, exceptions, **5:11**
 - implied undertaking rule, **5:12**
 - 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**
 - 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**

LABOUR BOARDS—Cont'd

- Hearings—Cont'd
 - cross-examination when calling an adverse witness, **5:11**
 - 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
 - advanced cost orders, **5:5**
 - amicus, **5:5**
 - 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**
 - extra-territorial aspects, **3:7, 5:5**
 - 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**
 - legal costs, **5:5**
 - membership support, **7:25**
 - mootness, **5:8**
 - over foreign corporations, **5:5**
 - parliamentary privilege, **5:5**
 - prospective ruling, **6:2**
 - stays, **4:21, 5:13**

LABOUR BOARDS—Cont'd

- Jurisdiction—Cont'd
 - 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**
 - bench warrant, **5:8**
 - certification, **5:5**
 - Charter rights, **3:31**
 - collective bargaining, reluctance to interfere, **10:24**
 - contempt, **5:8**
 - declaratory ruling, **5:8**
 - deferral, **5:5, 8:11**
 - detailed questions, **5:5**
 - general remedial powers, **10:38**
 - grievance arbitrator, **5:8**
 - marshalling powers, **5:8**
 - modification of collective agreements on intermingling, **8:5**
 - mootness, **5:8**

LABOUR BOARDS—Cont'd

- Powers and duties—Cont'd
 - more responsibilities, **5:19**
 - notice, ordering of, **5:8**
 - 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**

LABOUR BOARDS—Cont'd

Procedure
 adding parties, **5:8**
 burden of proof, **5:8, 10:2, 10:20**
 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**
 delivery, **5:8, 7:24**
 failure to file timely pleadings, **5:8, 7:24**
 field centres, **5:7**
 inferences, drawing adverse, **5:11**
 interim relief, **10:39**
 onus, **5:11**
 intervenors, 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, 7:24**
 officer reports, **5:7**
 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**
 Regulations, *vires* of, **5:5**
 Remedies
 see REMEDIES
 Reporting relationships, **5:6**

LABOUR BOARDS—Cont'd

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**
 conflicting authority, **5:13**
 evidence, reweigh, **5:17**
 expansive vs. narrow approach, **5:13**
 first impression, **5:13**
 interim procedural rulings, **5:13**
 judicial review, relationship to, **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 of, **4:10, 4:14, 5:10, 5:13**
 requests for, **5:13**
 res judicata, **5:13**
 same panel, by, **5:13**
 Saskatchewan, **5:13**
 summary dismissal procedures, **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**

LABOUR BOARDS—Cont'd

- 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**
 - 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**

LEGISLATION—Cont'd

- 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**
 - 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**
- Constitutional jurisdiction over, **3:2 to 3:4, 3:7**
- 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**

MANAGERS—Cont'd

- Excluded as employees—Cont'd
 - Canadian Charter of Rights and Freedoms, **3:26, 6:3, 6:5, 10:17**
 - 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**
 - 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**
 - loss prevention officers, distinguished, **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**
- Predictability, **6:3**
- Prince Edward Island, **6:3**
- Professionals, **6:3, 6:10, 7:9**
- 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**

MANITOBA—Cont'd

- 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**
 - card-based, **2:5, 7:24, 7:25, 7:53**
- Code of employment, **2:5**
- Collective agreements, rights after termination, **2:5**
- Conciliation, **2:5**
- Conciliation/grievance mediation, privatization, **2:5, 11:26**
- Essential Services, **2:5, 11:39**
- First agreement arbitration, **2:5, 10:47**
- Freedom of speech protection, **3:29, 11:9, 11:12, 11:15, 11:17, 11:20**
- 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**
- Interim certification, **2:5, 7:61**
- 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, 10:7**
- 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**

INDEX

MANITOBA—Cont'd

- Unions—Cont'd
 - 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**
- 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, 7:44**
- 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**
- New Brunswick
 - fishing, **2:6, 7:25**

MEMBERSHIP—Cont'd

- New Brunswick—Cont'd
 - unions
 - membership, one dollar repealed, **2:6, 7:25, 7:48**
- 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**
 - New Brunswick, **7:26**
 - 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**
- 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**

NATURAL JUSTICE—Cont'd

- Bias—Cont'd
 - 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**
- Neutral facilitators, exclusion of evidence of, **4:14**
- Notice requirements, **4:13**
- Procedural fairness, **4:14**
- Right to be heard, **4:13**
- Statutory restrictions, **4:10, 4:13 to 4:15, 5:8, 5:9**

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**
- Reasonable care defined, **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**
- Decertification
 - employer-initiated where no employees, **9:6**
- 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**
- Termination of bargaining rights
 - employer-initiated where no employees, **9:6**
- 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**

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**

NEWFOUNDLAND AND LABRADOR

—Cont'd

- Essential services, **11:30**
- First-agreement arbitration, **10:47**
- Fishing, **2:7**
- 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**
- Casual/relief employees, **7:23**
- Certification
 - additions and exclusions, **7:17**
 - backdoor, **7:17**
 - construction industry, **5:9, 15:6**
 - date of application, **7:26**
 - dismissal, remedial, **7:43**
 - remedial, **7:68, 10:49**
- Confidential capacity exclusion, **6:5**
- Construction industry, **2:8, 5:9, 15:6, 15:14**

NOVA SCOTIA—Cont'd

- 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**

ONTARIO—Cont'd

Bargaining units—Cont'd
 consolidation, **7:18**
 statutory provisions, **7:9**

Certification
 card-based, **7:25**
 certificate spent, **7:18**

Conciliation, **2:9**

Construction industry, **2:9**
 arbitrated relief where employer economic 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**

Notification of decertification procedures, **2:9**

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

Picketing
 see PICKETING

Ratification votes, **2:9**

ONTARIO—Cont'd

Related employer
 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**

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
 business closed, entitlement to picket, **11:19**
 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**
 federal pickets, **2:4, 11:2, 11:3, 11:18**
 free speech vs. right to trade, **11:17**
 leafleting, **3:29, 11:12, 11:17**
 nature of, **11:17**

PICKETING—Cont'd

British Columbia
 access of a federal employer, **3:3, 11:18**
 ally
 active assistance, **11:18**
 defined, **11:18**
 marked change in relationship, **11:18**
 separate and distinct operations, **11:18**
 back-to-work legislation, in context of, **11:18**
 business closed, entitlement to picket, **11:18**
 Charter values, relevance, **11:18**
 common situs picketing, **11:18**
 criteria, **11:18**
 defined, **11:18**
 effect on non-parties, **11:18**
 federal pickets, **2:4, 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, 11:19**
 Free speech, **3:29, 11:9, 11:15, 11:16, 11:19**
 General meaning, **11:10**
 Hot declaration as picketing, **11:18**
 Injunctions
 see REMEDIES
 Lawful picketing, communication involves persuasion, **11:14, 11:15**
 Leafleting, **3:29, 11:12, 11:17**
 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**
 British Columbia restriction upheld, **3:29, 11:18**
 Canadian Charter of Rights and Freedoms, **3:29, 11:15, 11:18**
 common law re, struck down, **11:18**
 legal confusion about, **11:15**
 Manitoba, **3:29, 11:12, 11:15, 11:20, 11:21**
 overruled, **11:15**
 right to trade paramount, **11:15**
 work normally performed by striking employees, **11:15**

PICKETING—Cont'd

- Signal effects, **3:29, 11:15, 11:18**
- Traditional torts, **11:12, 11:13**
 - assault or negligence, **11:12**
 - defamation, **11:12**
 - intimidation, **11:9, 11:12**
 - nuisance, **11:12**
 - property, interference with use, **11:9, 11:12**
 - secondary picketing, **11:12, 11:19 to 11:21**
 - 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**
- Police services legislation, exclusive jurisdiction of, **12:19, 13:1, 13:2**

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**

PRINCE EDWARD ISLAND—Cont'd

- 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**
 - 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, **6:3, 6:10, 7:9**
- Employees, excluded from, **6:3, 6:10, 7:9**
- Employees, included, **6:3, 6:10, 7:9**
- Managers, effective control test, **6:3**

PROPERTY RIGHTS

- See EMPLOYER PROPERTY RIGHTS

PROVINCES

- Employment, jurisdiction in field of, **1:2, 3:1 to 3:16**
- 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**

INDEX

QUEBEC—Cont'd

- Administrative Labour Tribunal, **2:11**
 - Cont'd
 - rules of evidence and procedure, **5:10**
 - vexatious matters, summary disposition, **5:8, 5:9**
- Arbitration, **2:11**
- Bargaining unit fragmentation policy, **7:10, 7:17, 7:19**
- Certification procedures, **5:7, 7:24**
- Charter of Human Rights and Freedoms, **3:18**
- 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
 - bargaining structure, **15:11, 15:14**
 - building commissioners, **2:11**
 - Commission de la construction du Québec, **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**
 - manpower referral system, **3:25, 13:10, 15:30**
 - 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, 8:6**
- Employer property rights, **10:8**
- Employment agency employer status, **6:6**
- Essential services
 - council procedure, **2:11**

QUEBEC—Cont'd

- Essential services—Cont'd
 - designation procedure, **2:11, 11:30**
- Essential services, council procedure, **2:11**
- Farm workers, **2:11, 3:26, 6:12**
- First agreement arbitration, **10:47**
- Grievance arbitration
 - disclosure required, **2:11, 12:8**
 - mediation recommended first, **2:11, 12:6**
 - pre-hearing conference required, **2:11, 12:8**
 - promptness required, **2:11, 12:6**
- 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 defined pension plans
 - permanently restructured, **2:11, 3:25**
- 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**
 - collective agreements in excess of three years allowed, **2:11**
 - coordination of bargaining, **2:11, 7:9, 11:31**
- Regulatory structure, administrative and legal, **5:4**
- Related employer, **6:6, 8:6**
- 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**
- Self-employed service providers, access to collective bargaining, **3:25, 3:26**
- Strike and lock-out, relief from for the vulnerable public, **2:11, 11:28 to 11:30**
- 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**

QUEBEC—Cont'd

- Unions—Cont'd
 - 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**
 - 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**

REMEDIES—Cont'd

- 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**
- Dismissal of proceedings, **10:20, 10:50**
- 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, **10:25, 10:47, 10:49**
 - Canada Labour Code, **10:47**
 - concurrent decertification, **10:47**
 - final-offer-selection, **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, **10:24, 10:47**
 - 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**

REMEDIES—Cont'd

Imposed collective agreement, **10:40**

Injunctions

- attempt at balance, **11:16**
- constitutional consideration, **11:9, 11:15, 11:21**
- constraints, **11:9, 11:15, 11:21**
- courts, **10:32, 11:8, 11:9, 11:12, 11:16, 11:21, 12:18, 12:19**
- courts vs. arbitrators, **12:18, 12:19**
- discretion, **11:23**
- interim relief, **10:39, 12:18, 12:19**
- interlocutory, **4:25**
- labour boards, issued by, **10:38, 10:39**
- labour dispute, whether a, **11:15**
- limits on picketing, **4:25, 11:9, 11:15, 11:16, 11:18, 11:19, 11:21, 11:23**
- non-party warnings, **11:16**
- partial injunctions, **11:16**
- police enforcement provisions, **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**
- legal costs, **10:42**
- mandatory orders, **10:46**
- Ontario policy directions, **11:23**
- overtime bans, **11:23**

Natural justice, **10:40**

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**

REMEDIES—Cont'd

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, **10:20, 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**

Build-up principle, **7:53, 7:59**

Campaign content, **7:53, 10:4, 10:20**

Casual employees, **7:53**

Changes to bargaining unit, impact, **7:2, 7:53**

REPRESENTATION VOTES—Cont'd

- Custody of ballot box, **7:53**
- Date of application, employees absent on, **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 for threshold count, **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**
- Timely complaints, **7:53**
- Unfair labour practice dismissal, right to vote, **7:43, 7:53**

REPRESENTATION VOTES—Cont'd

- Union mergers, **14:14**
- Unreliable membership evidence, **7:53**
- Validity
 - danger of packing, **7:53**
 - requirements, **7:53**

REVOCAATION

- 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, 8:5**
- 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**
- Delay, deception causing, **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, 8:6**
- Going concern, **8:2**
- Goodwill in location, **8:2**
- Government intervention, compared, **8:2**
- Hiatus, operational, **8:2**

INDEX

SALE OF BUSINESS—Cont'd

- Intermingling
 - collective bargaining fragmented, **8:5**
 - collective bargaining solution promoted, **8:5**
 - delay, **8:5**
 - functional integration, **8:14**
 - large disparity test, **8:5**
 - larger bargaining units favoured, **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, 8:6, 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**

SALE OF BUSINESS—Cont'd

- Transfer of assets vs. job functions, **8:4**
- Transfer of essential elements, **8:2, 15:10**

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**
- Decertification, individual employee support evidence required, **9:2**
- Dispute settlement procedures, **2:12**
- Duty of fair representation
 - delay, **5:14, 10:34, 13:11**
- 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**

SASKATCHEWAN—Cont'd

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
 - Charter values, relevance, **11:3**

STRIKES—Cont'd

Defined—Cont'd

- common understanding and activity, **11:2**
- element of purpose, **11:2**
- hot cargo clauses compared, **11:2**
- motive, relevance, **11:2**
- objective and subjective elements, **11:2**
- obstruction of workers and strikes, **11:2**
- picket line exception, British Columbia, **2:4, 11:2, 11:3**
- political protest, **6:14, 11:2**
- 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, **4:10, 11:25**
- Protections, **11:4**
- Provincial variations
 - resolution techniques, **2:13**
 - secret ballots, **2:13**
- Refusal to cross picket line, **11:2, 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**

STRIKES—Cont'd

Unlawful—Cont'd

- 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**
- damages, **11:7, 11:8, 11:22**
- encouragement, **11:2**
- essential services, **11:30**
- threats, **11:2**
- untimely tiered bargaining, **11:4**

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**
- Building services, **8:4, 8:5**
- 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**
- Delay, deception causing, **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**
- Franchises, **8:6**
- Going concern, **8:2**
- Government intervention, compared, **8:2**
- Hiatus, operational, **8:2**
- Intermingling
 - larger bargaining units favoured, **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**

SUCCESSORS—Cont'dOntario, **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**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, **14:8 to 14:19****TEACHERS/SCHOOL BOARDS**Bargaining structures, **2:9**Colleges of applied arts and technology, similarities in Ontario, **6:14**Identity of, definition, **6:14**

TEACHERS/SCHOOL BOARDS**—Cont'd**

- 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**
 - strike, lock-out, first agreement, **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**

TERMINATION OF BARGAINING**RIGHTS—Cont'd**

- 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**
- Duty of fair representation, applicability, **13:2**
- 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**
 - 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**

TERMINATION OF BARGAINING RIGHTS—Cont'd

- No employees in unit—Cont'd
 - seasonal employment concerns, **9:6**
 - test, **9:6**
- Nova Scotia
 - confidential personal statements instead of petitions, **9:2**
- 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**
- Self-representation, accommodating for, **9:2**
- Significant number of employees, **9:15**
- Standing to apply, **9:2**
- 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, 9:10**
- 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**
- Designated or certified employee bargaining agency, **6:7**
- Discrimination, **6:7**

TRADE UNION STATUS—Cont'd

- 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, 14:8 to 14:19**
- 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**
- 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**

UNFAIR LABOUR PRACTICES**—Cont'd**

- 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**
 - factors, **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**
 - 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
 - anti-union animus, ETL factors, **10:3**
 - clean hands doctrine, **10:29**

UNFAIR LABOUR PRACTICES**—Cont'd**

- British Columbia—Cont'd
 - proper cause for discipline required, **10:3**
- Burden of proof
 - generally, **5:11, 5:12**
 - 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, **10:2, 10:3, 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, **6:6, 8:4, 10:3, 10:6, 10:13, 10:26**
- 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**
- 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

UNFAIR LABOUR PRACTICES**—Cont'd**

- 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 interaction, **10:3**
- 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**
- First agreement bargaining
 - see REMEDIES
- Freeze, breach of, compared, anti-union animus, **10:12**
- Freeze, closure, **10:3**
- Freezes
 - see FREEZES
- General remedial powers
 - ancillary request for damages, **10:40**
 - certification, **7:62 to 7:69, 10:49**
 - interests to be considered, **10:40**
 - Newfoundland and Labrador, **10:40**
 - Ontario, **10:38**
- Implied rights
 - declaratory vs. effective sanctions, **10:16**
 - 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**

UNFAIR LABOUR PRACTICES**—Cont'd**

- 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**
 - exclusive jurisdiction, **5:5, 10:32**
 - 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**
- Non-union employee wage increases, **10:3 to 10:5, 10:11**
- No-reprisal issues, **10:23**
- No-solicitation cases, approach, **10:3**
- Notices and decisions, posting and mailing of, **10:43**
- Not identifying parties, **10:37.50**
- Obligation to inquire, **10:29**
- Offenders, prosecution of, parties, **10:1**
- Ontario, limited balancing of interests, **10:3**
- Past practice, meaning of, **10:3**
- Prima facie case, **10:29**
- Probationary employees protected, **10:3**
- Professional strikebreakers, legislation against, **10:7**

UNFAIR LABOUR PRACTICES**—Cont'd**

- 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**
- Qualified immunity of union representatives, **10:4**
- 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**
 - Manitoba, **7:7**
 - 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**
- Summary dismissal, **10:29**
- Termination of union organizer, **10:49**
- Time limits
 - relief against, **5:14, 10:34**
- Trusteeship, power of board to intervene, **14:2**

UNFAIR LABOUR PRACTICES**—Cont'd**

- 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**
 - election interference, **7:43, 7:53, 10:20, 10:50**
 - 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**

INDEX

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**

UNIONS—Cont'd

- Dues
 - Alberta, disclosure of and consent to political expenditures, **2:3, 3:27, 14:17, 14:27, 14:35**
 - Hiring hall referral restrictions, **3:25, 13:10**
- Duties
 - check-off regulation, **2:13**
 - 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**
 - internal appeal requirement, **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**

UNIONS—Cont'd

Filings—Cont'd
trusteeships, **14:2**

Fissuring and segmentation of work,
impact of, **1:6**

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, **3:25, 9:2, 13:10**

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**

UNIONS—Cont'd

Interference with—Cont'd
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 representatives, **10:4**
union security, **10:4**
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**

UNIONS—Cont'd

- Legal personality—Cont'd
 - 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**
 - standing to bring defamation action, **14:21 to 14:23, 14:30**
 - tort liability, **14:21**
 - 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, **14:9, 14:11**
- Trusteeship
 - see TRUSTEESHIP

UNIONS—Cont'd

- Unfair labour practices, **10:20, 10:50, 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**
 - 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**
- Cards vs elections, history of, **7:24, 7:62**
- Certification, procedure, **7:24**
- Certification without vote, remedial powers, **7:62**
- Civil rights
 - freedom of speech, **3:28**
 - picketing, **3:29**

UNITED STATES—Cont'd

- Civil rights—Cont'd
 - 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**
- 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**
- Globalization, impact of, **1:6**
- History
 - hands-off approach, **1:3**
 - legislative accommodation, **1:1**
- Judicial review, deference to grievance arbitration, **4:16**
 - deference to administrative agencies, **4:1**
- 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**

UNITED STATES—Cont'd

- 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**
 - Trump's tariffs, **1:6**
 - 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**
 - density statistics, **1:6**
 - filing requirements, constitution, by-laws and policies, **14:3**
 - filings, financial information, **14:4**
 - globalization, impact of, **1:6**
 - 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, 9:10, 15:7**
 - Representation vote, when, **7:52**
 - Requirements, **7:52, 15:7**
 - Saskatchewan, limitations, **7:52, 15:7**

VOLUNTARY RECOGNITION—Cont'd

- Strike-out provisions, **15:7**
- Termination of, **9:5, 9:10**
- 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**
- 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**
- unlawful terms, **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**

VOTING—Cont'd

- Strike—Cont'd
- 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
- Human rights tribunal jurisdiction, **12:19**
- 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**

