

## Unions A “Disadvantage” Says Federal Report

Unions are a “disadvantage” for investment, according to a confidential report commissioned by a government agency, the Federal Economic Development Agency for Southern Ontario.

The report, released through *Access to Information*, identified collective bargaining units as a “concern” for Ontario investors surveyed by federal consultants, though the province has one of the lowest rates of unionization in the country.

“the biggest problem I’ve met with by employers is labour”

“Unionization, particularly with respect to the manufacturing industry, and access to skilled workers were the labour issues most frequently identified by the key informants,” the report concluded; “Canada’s unionization rate is 31.2% nationally and 27.8% in Ontario as compared to 11.4% in the U.S. Especially in the manufacturing sector this discrepancy is a concern for investors.”

Gary Goodyear, minister responsible for the agency, would not take *Blacklock’s*

questions. The release of the study written by consultants Ference Weicker & Company followed the introduction of a private Conservative bill in Parliament, C-525 *An Act To Amend The Labour Code*, that would make it easier to decertify unions.

FedDev Ontario was created in 2009 with a \$219 million budget to promote investment in the province. The Ference Weicker report detailed numerous advantages for the region that is home to 90 percent of the auto industry; the largest telecom workforce in Canada; more than 800 medical, pharmaceutical and biotechnology firms; 44 universities and colleges; eight international airports and the St. Lawrence Seaway; a service area of 158 million people “within a day’s drive of Southern Ontario”; and a combined corporate income tax rate of 25 percent, compared to 40 percent in New York State.

However, the federal study cited “labour issues” as a disincentive to investment based on interviews with unnamed executives and legislators, who complained of “high wage rates and the rate of unionization.”

Ontario has the second-lowest ratio of employees covered by collective agreements, according to

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labour department data. Rates of unionization range from a national low of 24 percent in Alberta to 28% in Ontario; 30 percent in New Brunswick; 31 percent in Nova Scotia and British Columbia; 34% in Prince Edward Island; 35% in Saskatchewan; 36% in Manitoba; 39 percent in Newfoundland & Labrador; and a national high of 40 percent in Québec.

Under Bill C-525, employers in transport, banking, broadcasting and other federally-regulated *Canada Labour Code* industries can more easily decertify

unions. The bill, sponsored by Conservative MP Blaine Calkins, would permit decertification through secret balloting with the support of as few as 45 percent of employees.

Calkins, MP for Wetaskiwin, Alta., refused interview requests. The former Parks Canada employee earlier told the Commons that “the biggest problem I’ve met with by employers is labour”.

More than 800,000 Canadians are subject to the *Canada Labour Code*.



BY TOM KORSKI



# Waiting For Layoffs



The Department of Aboriginal Affairs is struggling to determine what to do with employees who've become redundant under a pact with the Northwest Territories.

Though layoffs are not certain until staff receive notification letters in October, hundreds became "surplus" under a Devolution Agreement signed with the territories June 25. No employees to date have lost their jobs, according to documents obtained through the *Access to Information Act*.

"All staff will be affected, albeit differently," read a confidential department

memo. "Some will be advised that they are being given a reasonable job offer with the (NWT), while others will be retained in their positions but in a newly redesigned organization, and unfortunately some employees will be told that they have not been retained and their positions will be declared surplus."

The memo added, "Staff in the NWT region feel frustrated at what they perceive as a lack of meaningful information about devolution particularly as it pertains to how and when their position will be affected."

The department's Northern Affairs

Organization currently has 416 staff, comprised of 221 in Ottawa and 195 in the territories.

The memo continued, "The absence of specific information leading up to a Devolution Final Agreement fosters uncertainty within the organization, with rumours and unhealthy speculation filling the information void."

A director with the Public Service Alliance of Canada said the union has no indication how many members face layoffs.

"The devil is in the details," said Kevin King, the alliance's Western regional director; "We have received no information that there would be any job losses."

The department told *Blacklock's* that "no federal employee will be disadvantaged" though federal duties have devolved to the Northwest Territories. When asked if staff in Ottawa would be dismissed, an official replied: "The final impact of devolution on HQ has yet to be determined."

BY JUSTIN LING  
[IMAGE LIBRARY & ARCHIVES 1972-047 NPC]

## CRTC "ABSURD", "WOEFUL"

Cabinet came under intense lobbying from Canada's largest telecom firm over a regulatory decision that left it at the mercy of internet "behemoths", according to confidential memos.

Emails and letters released through the *Access to Information Act* document a campaign waged by BCE Inc. for approval of its \$3.38 billion takeover of Montréal-based Astral Media Inc.

"Unregulated behemoths like Netflix, Apple, Google and Amazon are looking to dominate the communications landscape in a borderless digital world," BCE legal counsel wrote in a 30-page memo to cabinet. "More than 10% of Canadians now subscribe to Netflix, which accounts for more than 11 million hours of TV viewing per week. Canadian companies need to make investments in Canadian content and technology in order to innovate, launch multi-platform offerings for consumers and go head-to-head with these well-financed global competitors."

Regulators with the Canadian Television Radio and Telecom Commission initially rejected the Bell takeover last Oct. 18. The ruling sparked a flurry of protests from BCE Inc. counsel

Mirko Bibic, who demanded cabinet issue a policy directive to the CRTC – and even drafted suggest wording for ministers' approval.

"The CRTC's decision raises significant and urgent public policy concerns," wrote Bibic, who forwarded the memo that ridiculed the decision as "absurd", "patently absurd", "troubling", "woeful", "disconcerting", "inappropriate" and "tainted".

Documents indicate Astral CEO Ian Greenberg personally petitioned Stephen Harper to approve the buyout of his company, explaining in a "Mr. Prime Minister" letter on Oct. 24, 2012 that he was "shocked" regulators barred the sale.

"Mr. Prime Minister, this is why I seek your support to restore the clear and predictable rules that are crucial to the orderly operation of our broadcasting system," wrote Greenberg, who said Canadian broadcasters are "currently under intense competitive pressure both domestically and internationally."

The *Access* records censor Harper's reply. Regulators finally approved the takeover last June 26. Documents detailing the lobby efforts included 27 pages of redacted Privy Council memos

and portions of 33 emails shared by senior staff in the days immediately after the CRTC originally vetoed the corporate buyout.

"Broadcasters are obstructed by government from adapting to the rapidly changing environment through corporate reorganizations, investments and divestitures," wrote BCE counsel Bibic, the firm's chief regulatory officer. "Such actions must be available if Canadian broadcasters are to compete effectively against the growing presence in Canada of unregulated international corporations like Google, Apple and Netflix."

The final takeover left Bell with control over 36 percent of the nation's English-language broadcasting, and 23% of the French market. Bell commenced layoffs of "redundant" staff in Toronto and Montreal on Aug. 15.

BY STAFF







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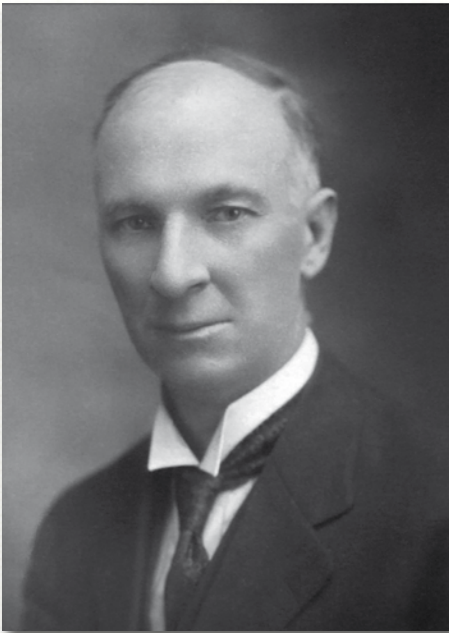
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*Tom Hyland Blacklock*

A pioneer publisher and war correspondent, confidante of three prime ministers and 1922 president of the Ottawa Press Gallery, Tom Blacklock was mourned at his passing in 1934 as "a keen observer blessed with a sense of proportion." Born in Halton County, Ont. in 1870, he became a frontier editor and first mayor of Weyburn, Sask. in 1903. Assigned to Parliament Hill by the Winnipeg Telegram in 1912 he remained a gallery man for life with columns published from Victoria to Halifax: "As Tom Blacklock used to say, 'That ain't the way I heard it.'"

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# Dr. Robert Blackadar

## THE DAY WE FOUND PEARY'S FLAG

I remember when the Arctic was Canada's Amazon – a romantic, forbidding land. School textbooks depicted it as a pink space on the Canadian map with small dots of inhabitation – "Fort This" and "Fort That". These were often Hudson Bay posts with a population of three.

It was said the Soviets had better maps of the region than we did. And Americans had built airbases in Alaska and Greenland. Canada was in between, with a tenuous foothold on the Arctic islands, and officials grew nervous about who owned what. It was the old story of the north – 'use it or lose it'.

So, in 1953 as a young scientist with the Geological Survey of Canada I joined what was an extraordinary journey: we would map the Arctic.

Planning took a year. We had to cache fuel supplies and wrap ourselves in heavy padded clothing the army developed for Arctic use. In the spring of '53 we left aboard a supply ship out of Quebec City, steaming up the Labrador Coast to Baffin Island at eight knots.

On landing we headed for Ellesmere Island. My colleague was Geoffrey Hattersley-Smith, an English glaciologist who'd been a member of the British Antarctic Survey in 1950. We traveled by dog teams we'd hired from Inuit in Greenland, equipped with tents and dehydrated foods, and little portable stoves. It felt like an expedition.

The north coast of Ellesmere Island is in the lee of the wind, and the snow was deep and heavy. Hattersley-Smith was a gung-ho character who seemed to enjoy it: if you felt tired, tough! Grit your teeth and get on with it! I was in my 20s. It was an adventure.

I recall the day we found Arctic explorer Robert Peary's flag.

Peary's wife had given him a handmade flag to carry on his last expedition, in 1906, when he claimed to "discover" the North Pole. Peary died in 1920 but left a written account of the map's location in a cairn at Cape Columbia overlooking the Arctic Ocean.

The day we spotted the cairn, Hattersley-Smith proposed we follow a tradition of British fair play: we would walk towards our find hand-in-hand so



neither of us could later say, "I was first to discover Peary's flag!"

Hidden in the cairn was a rusted tin with a perfectly preserved remnant of the flag the size of a handkerchief. Later we gave it to Peary's widow.

Hattersley-Smith and I made other finds that year. We found tins of fruitcake from an 1875 British expedition, and letters addressed to Amundsen left behind by a Danish team in 1920.

And we began the work of mapping the Canadian Arctic. It was a mammoth task that took years to complete, over hundreds of thousands of square miles.

In the end, we planted our own Canadian flag, and established that we – no less than Americans or Russians – had a stake in the Arctic.

Hattersley-Smith passed away last July in England. Peary's flag is now preserved by the National Geographic Society in Washington, D.C. And I am retired in Ottawa at 85, and marvel when I see ads in the travel pages for Arctic travel by cruise line.

The Arctic isn't what it was 60 years ago!

(Editor's note: the author is an acclaimed geologist and member of the Geological Survey team that first mapped the Canadian Arctic).



# A Computer Picks 'Em

The Correctional Service says a computer-generated system of tracking substance abuse has been effective in curbing contraband in federal prisons, though more than 1 in 10 inmates test positive for drugs or alcohol.

Thousands of inmates are subject to urine testing each month as picked by a customized *Random Selection Generator Computer Program*. Correctional Service managers declined an interview on the program, but told *Blacklock's* they considered the computerized process a "reliable method" of keeping drugs out of prisons.

Using the software, a National Urinalysis Coordinator generates a monthly random list totaling five percent of the population in every federal prison.

"There have been occurrences where inmates

have been subject to 'random' testing not long after they'd already been tested – which suggests it's not so random," said Brian Callender, a Kingston, Ont. attorney who has represented inmates in Federal Court. "We know drugs and alcohol get into prisons; people try to get around the rules outside of prison, too."

Callender added, "I don't think any judge would find that attempts by the Correctional Service to control drugs in an institution and the methods they use are disproportionate to the problem."

Correctional Service documents released through the *Access to Information Act* conclude institutions are rife with substance abuse, with 12 percent of inmates at any given time testing positive for bootleg alcohol, marijuana, hashish, opiates, benzodiazepines and

other drugs.

"Twelve percent sounds low," said John Edmunds, president of the Union of Solicitor General Employees; "Every time you come up with a new policy, inmates will try to find a way around it."

Correctional Service research concluded 70 percent of inmates "are assessed as having a substance abuse" on first entering prison: "Correctional institutions have the highest concentration of convicted drug traffickers and serious substance abusers in society living together for extended periods of time."

An inmates' advocate said computerized testing of prisoners and frisking of jailhouse visitors do not cover all possible avenues for smuggling of contraband.

"As far as the program's effectiveness, I think those

statistics indicate that it is not," said Jennifer Metcalfe, executive director of Prisoners' Legal Services of Abbotsford, B.C.

"Currently only prisoners and visitors are searched upon entering prisons," Metcalfe said. "A more effective strategy to keep drugs out of prisons might be to also search staff and contractors."

The prison service estimated a medium-security institution with 650 inmates will receive 1,900 visits a week from prisoners' families, contractors, couriers and others.

"Better treatment of people with addictions generally in society, and better access to methadone programs in prison, would in my view help to reduce the amount of drugs in prison," Metcalfe said.

BY TOM KORSKI

## "WE DO NOT HAVE A NATIONAL HOUSING POLICY IN CANADA"

Members of the government caucus are being pressed to "lend their voice" to public housing policy affecting constituents in their own ridings.

Advocates with the Co-operative Housing Federation of Canada lobbied a succession of Conservative MPs over the expiry of rental subsidies for housing co-operatives with federally insured mortgages. Under the Federal Co-Operative Housing Program, subsidies are timed to expire with mortgages insured through Canada Mortgage & Housing Corporation.

"We'd like the government to take a serious look at this," said Nicholas Gazzard, executive director of the

federation; "We don't have a national housing policy in this country."

Gazzard continued, "The federal government has made it clear they consider this to be provincial jurisdiction; we'd like a cost-shared rental supplement."

CMHC told *Blacklock's* it had no data on the number of co-op renters receiving annual subsidies; nor would the public insurer release written criteria on co-op renters who qualify for aid.

The federation estimated 200,000 households nationwide receive public assistance to live in co-operative housing.

"These are people who cannot afford their own home," said Gazzard: "People

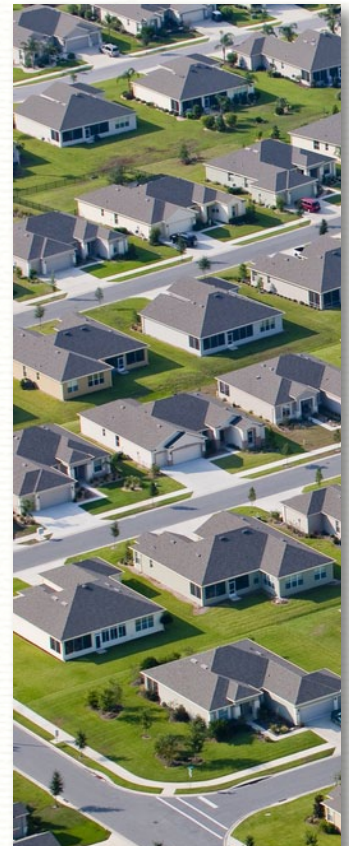
on fixed incomes, the working poor, immigrants; these are people who can never save for a downpayment and are simply priced out of the home ownership market."

Advocates estimated federally-insured mortgages will begin to expire this decade under maturing 30 to 35-year agreements between CMHC and co-op boards across Canada.

The federation to date lobbied five Conservative MPs with co-op housing, including MPs Ed Holder (London West, Ont.); Terence Young (Oakville); Gary Goodyear (Cambridge, Ont.); Royal Galipeau (Ottawa-Orleans); and Joan Crockett (Calgary Centre).

"We are asking them to lend their voice," Gazzard said.

BY STAFF





# Another Step In \$5B Dispute

Cabinet has taken another step to imposing punitive tariffs on U.S. goods in a multi-billion dollar dispute over meat labeling.

The Department of Agriculture served notice it formally asked the World Trade Organization to convene a compliance panel in a dispute a WTO arbitrator already settled in Canada's favour.

Agriculture Minister Gerry Ritz did not take *Blacklock's* questions. In a statement issued to reporters, Ritz said: "Despite consistent rulings by the WTO, the U.S. government continues its unfair trade practices which are severely damaging to Canadian industry and jobs."

The dispute follows a 2008 policy called country of origin labeling, in which the U.S. ordered processors to segregate livestock and meat products from Canada and Mexico – a regulation that led to sharp reductions in Canadian exports. The U.S. did not comply with an earlier May 23 deadline to repeal the labeling requirement.

Producers calculate the labeling rule led to a 46

percent decline in beef sales to the U.S., and a 41 percent reduction in hog exports – a \$5 billion loss, by industry estimate.

U.S. farm groups have also protested the labeling requirements as "burdensome and onerous", and filed suit against the U.S. government in Washington.

In Ottawa, the Department of Finance earlier served notice it will impose 100 percent tariffs on a hit-list of U.S. goods if the labeling is not suspended. The preliminary tariff targets include U.S. live cattle and swine, fresh and chilled beef and pork products, processed cheese, apples, cherries, corn, milled rice, maple sugar, maple syrup, sugar, glucose, fructose, lactose, chocolate, pasta, bread, pastry, cakes, biscuits, potatoes, frozen orange juice, tomato sauce and ketchup, fortified wine, ethyl alcohol, peptones, jewelry, stainless steel tubing, stove parts, grinding balls for mills, swivel seats, wooden office furniture and mattresses.

BY STAFF

[IMAGE WTO]

## ADD WATER & STIR

An Ontario dispute over bottling of fresh water underscores a new era of regulation of the resource, analysts tell *Blacklock's*.

The Environmental Review Tribunal, a provincial agency, ordered a full inquiry of a bid by Nestlé Waters Canada to draw 1.13 million litres of groundwater from a well in Hillsburgh, Ont., west of Toronto, regardless of drought conditions.

"Clearly we are going to see more and more droughts," said Will Amos, director of the University of Ottawa's Ecojustice Clinic, an intervener in the case; "This is strong encouragement from an important judicial body for provinces to take precautions with groundwater."

Nestlé last year received a five-year renewal on an existing Hillsburgh water license with Ontario's Ministry of the Environment that permitted the company to draw its quota regardless of rainfall levels. Nestlé trucks the water by bulk tankers to a nearby bottling plant.

Mark Mattson, president of Waterkeepers Canada, called the Ontario case "the tip of the iceberg" in oversight of freshwater bottling.

"The province doesn't know and doesn't understand the connection between surface water and groundwater," said Mattson. "Groundwater is a public resource."

The Nestlé review follows Parliament's June 6 enactment of first-ever legislation to restrict the bulk sale of transboundary waters.

Bill C-383, the *Transboundary Water Protections Act*, revised portions of the 1909 *International Boundary Waters Treaty Act* to prohibit the commercial use of more than 50,000 litres per day from transboundary water basins.

"You can still bottle water under my bill," said Conservative MP Larry Miller, author of the bill, who



noted regulation of most water resources is under provincial jurisdiction.

"If Philadelphia needed fresh water out of a lake and wanted to build a pipeline, they couldn't do it under my bill," said Miller, MP for Bruce-Grey-Owen Sound, Ont. "The legislation was never meant to stop a soda pop company."

Miller's bill, which passed the House with unanimous, all-party support, forbids the commercial licensing of any transboundary bulk water project under maximum penalty of \$6 million in fines and five years' imprisonment.

Legislation to ban bulk transfers from freshwater basins had been cited in the 2008 and 2009 Throne Speeches, and was the subject of a 2010 federal bill that lapsed without passage.

BY KAVEN BAKER-VOAKES





# Farewell, Old Bill

The death of anti-counterfeiting legislation with the prorogation of Parliament has MPs facing demands to try, try again.

"Counterfeiting is a huge problem; the bill would have helped," said Wayne Edwards, chair of the Canadian Anti-Counterfeiting Network, an industry group. "I know a number of MPs have this high on their personal agendas."

Bill C-56, *An Act To Amend The Copyright Act*, was introduced last March 1 but stalled in committee and now lapses with the wind-up of the First Session of the 41<sup>st</sup> Parliament. Under House rules, MPs may vote to resurrect old bills at their previous stage of debate.

Bill C-56 granted border agents new powers to seize counterfeit goods; and convicted bootleggers faced a maximum \$1 million fine and five years' imprisonment for the manufacture, sale and distribution of counterfeit goods under the *Trademarks Act* as well as *Copyright Act*.

"If there is a silver lining it's that our members will be more diligent in making sure this issue doesn't get lost," said Edwards, who noted industry was concerned by a little-noticed provision of C-56 that downloaded the cost of enforcement onto patent and

copyright owners.

Under the bill, owners could file a "request for assistance" with the Department of Industry to track and seize cross-border shipments of counterfeit products. However, applicants would be required to provide unnamed "security" to the department, and be liable for the cost of storing, handling and destroyed bootleg items (Sec. 44.02, 44.07).

"There was no fee schedule, that was our bugaboo," Edwards said. "This was ridiculous, to put the cost back on our members; smaller companies could not bear the expense, and it didn't seem fair."

Analysts contacted by *Blacklock's* noted Parliament has yet to pass enhanced anti-counterfeiting legislation, though the value of fake goods seized by the RCMP has grown five-fold since 2005 to \$38 million annually.

"We want to see the government move forward on this," said Adam Grachnik, of Food & Consumer Products of Canada. "Bill C-56 was seen as a pretty positive step forward, though it was pretty unclear on the cost aspect."

"We did not support the downloading of costs onto industry," Grachnik said.

Bill C-56 was one of eight relevant government bills to lapse as Parliament prorogued. Others included:

- Bill C-4, *An Act To Amend The Immigration & Refugee Protection Act*, introduced in the Commons June 16, 2011 and debated to Second Reading; would grant cabinet broader powers to detain "irregular" immigrants, jail convicted smugglers and deny applications for permanent residence;
- Bill C-12, *An Act To Amend The Personal Information Protection & Electronic Documents Act*; introduced Sept. 29, 2012 but never debated; would authorize disclosure of personal information without consent in cases of police investigations, and allow federal agencies, employers and insurers to collect and use personal information without consent;
- Bill C-30, *An Act To Amend The Investigating And Preventing Criminal Electronic Communications Act*; introduced Feb. 14, 2012 but never debated; would compel telecom companies to provide subscribers' names, email addresses and personal data to police and federal agents under threat of \$250,000 fines;
- Bill C-49, *An Act To Amend The Museums Act*, reported to Third Reading in the Commons by a vote of 143 to 113; would rename the Gatineau, Que.-based Canadian Museum of Civilization as a

"Canadian Museum of History" with a refocused mandate to co-ordinate domestic exhibitions with provincial museums;

- Bill C-54, *An Act To Amend The Criminal Code*, passed the Commons June 18 and lapsed in the Senate; would create a new offender category of adults found not responsible for "brutal" crimes due to mental disorder, to be held in psychiatric facilities without day release as "high-risk accused";
- Bill S-12, *An Act To Amend The Statutory Instruments Act*, passed the Senate Dec. 10 and still awaiting Second Reading in the Commons; would permit new federal regulations to be drawn from unpublished sources "as amended from time to time", ending a practice of publishing all regulations in the *Canada Gazette* Directorate dating from 1841;
- Bill S-16, *An Act To Amend The Criminal Code*, passed the Senate June 4, now before the Commons justice committee; provided for five years' imprisonment for tobacco smuggling.

The House of Commons, originally scheduled to meet in session for eleven weeks before Christmas, will hold an abbreviated sitting beginning in October.

 BY TOM KORSKI

## FOOD INSPECTORS WON'T PAY FOR MISTAKE

A food company that sued federal inspectors for compensation over a mistaken million-dollar recall has failed to persuade the Supreme Court to hear its final appeal.

Los Angeles Salad Co. Inc., a distributor of baby carrots to Costco stores, demanded compensation from the Canadian Food Inspection Agency for falsely claiming its product was poisoned.

"The Food Inspection

Agency can't effectively regulate food if they're going to be sued by private entities when they make mistakes," said Garth Myers, an associate with Koskie Minsky LLP of Toronto.

Los Angeles Salad Co. lost its case in the Supreme Court of British Columbia, and was unsuccessful in a subsequent application to the B.C. Court of Appeal. Supreme Court justices declined to hear

further testimony.

The case followed a 2007 outbreak of *Shigella*, microscopic bacteria that cause diarrhoea, fever, cramps – and chronic arthritis in extreme cases. In an Aug. 18, 2007 news release headlined *Health Hazard Alert*, federal inspectors claimed the company's baby carrots "may contain *Shigella* bacteria"; that the carrots were unfit for consumption; and that the

agency knew of four cases of illness.

Los Angeles Salad Co. subsequently recalled baby carrots from Costco stores in British Columbia, Alberta, Ontario, Québec, Newfoundland & Labrador and chain outlets across the United States. The company estimated lost sales at \$1 million.

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# Senate Urges Safety Audits

The Senate's energy committee is urging that federal regulators develop mandatory safety audits of the shipment of petroleum products by rail, pipeline and tanker.

The Senate investigation, which began last Nov. 28, coincided with the explosive derailment of tanker cars at Lac-Mégantic, Que. that left 47 dead.

"The government needs to look at this seriously," said Senator Richard Neufeld, Conservative committee chair and a former British Columbia energy minister.

"The purpose of the study was not to compare transportation modes and decide the safest means to transfer hydrocarbons," Neufeld told reporters. "The committee believes that all forms of transportation will play a role in our energy future, and that all modes of transportation will operate in a manner that protects the safety of Canadians and the environment."

Nationwide the number

of pipeline accidents totaled seven last year, with six main line derailments of trains carrying dangerous goods. Both modes of transport have a 99.99 percent safety record according to the Senate report, *Moving Energy Safely: A Study of the Safe Transport of Hydrocarbons by Pipelines, Tankers and Railcars in Canada*.

"As long as society chooses to use hydrocarbons as a way to generate energy, they will always have to be transported; and as long as they are transported, we can never say that there will be zero risk," said Senator Grant Mitchell, committee vice-chair and a former Alberta Liberal leader. "It's with that in mind that we have studied this process and have come up with recommendations."

Senators urged that the National Energy Board develop mandatory safety audits with industry; that Transport Canada review the use of obsolete tank cars built to CTC-111A and DOT-111 standards that do not have equipment to safeguard

protective fittings from damage in collisions; that authorities review liability insurance requirements for railways; and that the transport department conduct periodic scrutiny of the Canadian Coast Guard's preparedness plans for spills by oil tankers.

Senators noted the Atlantic coast has not seen a major tanker spill since 1970, when the Imperial Oil vessel *Arrow* ran aground in Nova Scotia's Chedabucto Bay and leaked 73,000 barrels of oil. The most recent British Columbia disasters were the 2006 sinking of the ferry *Queen Of The North* with 1,800 barrels of oil aboard, and a 1988 wreck of the barge *Nestucca* that fouled Vancouver Island's shores with 7,000 barrels of oil.

"A theme we think should emerge from this is a question of corporate safety culture," said Mitchell. "We were impressed by the focus in the industry and by regulators on safety culture. We think that it's well-embedded and well-established. It's an important

concept; we also believe that it can be enhanced."

Pipelines account for 97 percent of daily gas and oil shipments nationwide, though only a fraction of the 825,000 km system – less than nine percent – is federally regulated, senators noted. Shipment of petroleum products by rail has nearly doubled in the past year without a major spill, prior to the Lac-Mégantic wreck, since the 2005 derailment of tank cars at Wabamun, Alta, that released 788,000 litres of oil. The more recent July 5 rail disaster resulted in a spill of more than six million litres of oil and a fireball that incinerated downtown Lac-Mégantic.

"We hope that the government moves relatively quickly," said Senator Neufeld.

The Senate committee held hearings in Nova Scotia, New Brunswick, Ontario, Alberta, Washington State and Alaska.



BY DALE SMITH

## THREE ACCIDENTS, ONE CAUSE

Federal crash investigators are warning Transport Canada and flyers of an error now linked to three fatal mid-air collisions, including a Saskatchewan accident that killed five people.

The Transportation Safety Board in a formal report urged regulators and pilots to emphasize the limits of "visual flight rules" in higher traffic airspace.

"We don't have a magic solution," said Peter Hildebrand, regional operations manager with the safety board; "There are a number of regulations in effect, and what we have done is highlight them to the industry and Transport Canada."

Under visual flight rules, pilots are instructed to simply look for other aircraft and take evasive action as needed. However investigators said in three confirmed incidents, pilots failed to avoid fatal mid-air collisions.

"All of this boils down to the pilot," said Hildebrand.

In the most recent accident on May 12, 2013, a Piper *Arrow* preparing to land at St. Brieux, Sask. with a lone pilot and two passengers aboard collided at 4500 feet with a Lake Buccaneer craft carrying one crew and a single passenger. There were no survivors.

A similar May 28, 2012 collision involving a

Transportation Safety Board pilot at Warrenton, Virginia killed two people. And an Aug. 4, 2006 collision at Caledon, Ont. claimed three lives.

Investigators urged that pilots communicate with air traffic controller. In the case of the Saskatchewan crash, the board determined both aircraft were equipped with passive collision avoidance systems but could not determine if they were operational.

"You're forcing aircraft into a smaller area and reducing that ability to miss each other because you're directing everyone into the same space," said Jon Lee, the board's western regional manager.

"Technology on the aircraft is one way of addressing it, but there are other ways – such as having everyone under air traffic control."

In the case of the Virginia collision, pilots had been in contact with a distracted controller who radioed warnings only seconds before impact.

"He didn't totally ignore it," said Lee. "Thirty-five seconds after issuing clearances and instructions to several other aircraft, he went back to the Piper pilot and issued a traffic alert – but by then the two aircraft were (on a collision course)."



BY KAVEN BAKER-VOAKES



# A Ride To The Airport



Anti-trust investigators have seen a ninth air cargo carrier convicted of price-fixing in a cartel dating back a decade. The latest carrier fined by the Competition Bureau is LATAM Airlines Group, a Chilean-based corporation, which admitted to conspiring to gouge customers on fuel surcharges.

In an admission in Ontario Superior Court, the carrier with agents in Toronto, Montréal and Vancouver admitted it conspired with eight rival airlines to fix the timing and amount of surcharges in violation of the *Competition Act*. Investigators estimate that, at its peak, the cartel monopolized 60 percent of air cargo traffic between Canada and South America.

"In addition to showing there was an agreement to fix prices, we had to demonstrate that it had a significant

negative impact on competition," said Richard Bilodeau, assistant deputy commissioner of competition. "That requires experts and economic data; that is really the primary reason why the investigation took so long."

To date investigators have levied a total \$25.13 million in fines against nine members of the air cargo cartel. Authorities estimated the price-fixing occurred between 2002 and 2006.

"Obviously we are dealing with a cartel that lasted a number of years; that generated a lot of documents as well," Bilodeau said.

Carriers convicted to date are Korean Air Lines Co. (fined \$5.5 million); KLM (\$5 million); British Airways PLC (\$4.5 million); Air France (\$4 million); Cathay Pacific Airways (\$1.5 million); Cargolux Airlines International (\$2.5 million); Martinair Holland NV (\$1 million); LATAM Airlines (\$950,000); and Qantas Airways Ltd. (\$155,000).

Investigators told *Blacklock's* the air cargo probe is ongoing. Companies convicted to date were cited under Section 45.1c of the *Competition Act* that forbids any scheme to "fix, maintain, control, prevent, lessen or eliminate" competition. In 2010 cabinet increased maximum penalties to \$25 million and 14 years' imprisonment.



BY KAVEN BAKER-VOAKES

"Food Inspectors" from Pg. 7

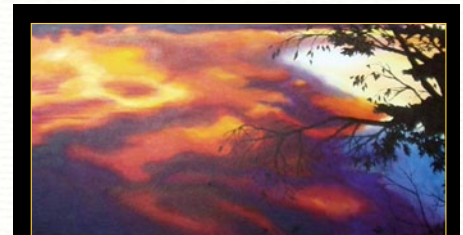
However, company lawyers argued CFIA never confirmed the carrots were tainted, and that the agency's investigation was flawed. It sued for damages.

The agency argued its only duty under federal law was to exercise caution for public benefit, and was not liable for damages even if mistaken.

"They owe a duty to the public at large to regulate food," Myers said; "Maybe there is a tacit acknowledgment that they're going to make mistakes in executing their duty, and in these cases the courts are always trying to determine if a private law duty of care can coexist with a public law duty of care."



BY DALE SMITH



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## AIR CANADA MUST ABIDE PROVINCIAL LAW: JUDGES



Air Canada is subject to provincial consumer legislation just like other corporations following a Supreme Court action in a five-year ticketing dispute.

The Supreme Court declined to hear further testimony over Air Canada's dismissed claim it was exempt from legislation in British Columbia as a federally-regulated enterprise. The carrier had invoked the claim in a dispute with a passenger who alleged Air Canada violated B.C.'s *Business Practices And Consumer Protection Act*. The airline lost previous appeals at the B.C. Supreme Court and Court of Appeal.

"They dreamed up this argument about inter-jurisdictional immunity and the constitutional issues, and I think the judge spent about ten sentences throwing them all out," said Andrew Roman, associate counsel with Miller Thomson LLP of Toronto. "They were very weak arguments and I'm sure the defendants expected they would not succeed – but that wasn't the point."

"The point was to raise as many arguments as you can," Roman said.

A passenger, Bulent Unlu, complained after purchasing a 2008 Air Canada ticket that misidentified a \$340 fuel

surcharge by the item code "YQ", suggesting it was a tax. Unlu argued that by characterizing a company surcharge collected for its own benefit as a government tax levied by statute, Air Canada engaged in a "deceptive practice" forbidden by B.C. law.

Air Canada argued unsuccessfully that the provincial legislation was constitutionally inapplicable – a claim that prompted the B.C. Attorney General to seek intervener status against the carrier.

With the Supreme Court's upholding of the lower court dismissal, the case reverts to Unlu's pursuit of class-action damages. Unlu has sought a refund of surcharges collected by Air Canada in the guise of a tax, and sought a permanent injunction against the practice.

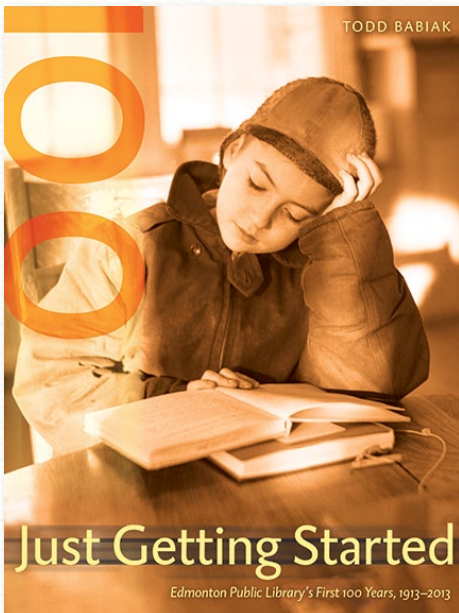
"Mr. Unlu if he wins this case is probably going to win twenty-five dollars," said Roman. "He's not going to the Supreme Court for \$25, and if he does, it is going to cost him a hundred grand."



BY DALE SMITH



## BOOK REVIEW: "WHY ARE YOU HERE?"



University of Alberta researchers in a 2012 project asked public library users in Edmonton, "Why are you here?" Responses varied. "Homework," said one; "Homeless," said another; "To read Hemingway"; "To nap"; "To browse, play chess, make friends"; "Because I'm a bookworm with no money."

Libraries remain the only public institution where anyone can enter, anytime, and

relax in pleasant surroundings to learn or stare. Most of us discover libraries as children, and return to them as parents. All of us feel smaller when local libraries close.

Alberta novelist Todd Babiak, a columnist with the *Edmonton Journal*, documents the library as a focus of city life in *Just Getting Started*. It is a centenary profile of the Edmonton public system.

Babiak is a gifted writer and his stories are compelling – like the time he encountered a stranger in a business suit who would come to the library day after day: "He read popular business books: *Good to Great* and *The 7 Habits of Highly Successful People*. Since I was in a library, a story place, and thinking of libraries and its characters, I decided not to interview the man. Instead I imagined him as a character. He has lost his job and he lacks the courage to speak to his wife and family. Every morning he walks out of the house with his briefcase, turns and waves to his children at the window, and sits in the most comfortable place in the city – a place of subtle honour – for men and women who either can't stay at home or don't have one."

The stories of libraries are tales of struggle. Squeezing grants out of municipal councils to loan free books on the honour system is not a business model that lends itself to entrepreneurial bravura.

Yet libraries speak to "permanence and maturity and pride," writes Babiak. Their role is reflected in their architecture; Edmonton's 1922 Carnegie library featured marble stairs, oak trim and skylights.

"Whatever a library is, today, it is of its place," Babiak notes. "It cannot be duplicated. Still, we wonder why. Why go to all the trouble if books – and therefore libraries – are doomed? Because they aren't doomed."

In Edmonton or Ottawa or your town, libraries remain the only truly accessible place of learning, and best introduction to ideas. As one librarian put it, "The public library is practically the only institution that provides educational material and opportunity and opportunities for the people at large."

Almost unique among media, the library's role is unchanged.

In 1943, Babiak writes, the Edmonton Public Library compiled a list of common enquiries from its cardholders. The results included "curing nervous tension"; "how to cook food to avoid loss of vitamin C and minerals"; "fads and fancies as factors in demand for goods"; "juvenile delinquency and its prevention".

It still makes a snappy reading list.

BY HOLLY DOAN

*Just Getting Started: Edmonton Public Library's First 100 Years, 1913-2013* by Todd Babiak; University of Alberta Press

## "COOL IN THE SUMMER, WARM IN THE WINTER"

a poem by Shai Ben-Shalom

First came the roofer.

"Your insulation is only 20 centimetres thick," he said.  
"Kyoto Protocol requires 40;  
I can fix it  
so your house will be cool in the summer,  
warm in the winter."

Then came the window specialist.

"These are not according to code," he said,  
"They transfer heat from around the frame  
and through the glass.  
Our new models are tightly sealed  
and Argon-insulated;  
they will keep your house cool in the  
summer,  
warm in the winter."

Duct cleaning service was next.

"Clogged with dirt,"  
announced the rep,  
his tone conveys the gravity of the  
situation.  
"They have to be cleaned  
if you want your house to be cool in the  
summer,  
warm in the winter."

The air-conditioning guy was sweating  
working on the compressor.

"It's not worth the repair," he said,  
pointing at the rusty part.  
"I could get you a deal  
on a brand new central air;  
it will really keep your house  
cool in the summer."

The heating technician didn't waste time.

"It's only 65 percent efficiency," he said,  
his flashlight's beam probes the old  
furnace.

"They don't make these anymore.  
I could send a salesperson  
to explain our high-efficiency model;  
it will really keep you  
warm in the winter."

Considering a new iron-free, short sleeve  
shirt  
at the sport outfit store.  
Associate says  
it is made from a hi-tech thread  
that transfers moisture  
away from the body.

I wonder if it will keep me  
cool in the summer.

(Editor's note: the author is an Israeli-born biologist; he recently published his first collection of poems, *Martians Among Us*, with In/Words Press)



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**Agostinho, Luis** – of Toronto, reappointed a member, Immigration & Refugee Board, Toronto Office, effective Nov. 15

**Cunningham, Lynne** – of Calgary, reappointed a member, Immigration & Refugee Board, Calgary Office, Sept. 1

**Ellis, Karen** – of Ottawa, appointed president, Federal Economic Development Agency for Southern Ontario, with a salary in the range of \$188,600 to \$221,800, August 12

**Gagnon, Yves** – of Ottawa, appointed Ambassador to Cuba, with a salary in the range of \$131,200 to \$154,300, August 12

**George, Roland** – of Calgary, reappointed a member, National Energy Board, August 8

**Hall, James** – of Toronto, appointed a director, Atomic Energy of Canada Ltd., August 1

**Kowal, Harry** – of Ottawa, appointed Principal, Royal Military College, with a salary in the range of \$167,700 to \$197,200, August 1

**Lafleur, Annie** – of Montreal, reappointed a member, Immigration & Refugee Board, Montreal office, effective Nov. 15

**Natynczyk, Gen. (Ret'd.) Walter** – of Ottawa, appointed president, Canadian Space Agency, with a salary in the range of \$216,900 to \$255,100, August 6

**O'Sullivan, Susan** – of Ottawa, reappointed Federal Ombudsman for Victims of Crime, with a salary in the range of \$121,700 to \$143,100, August 16

**Paradiso, David** – of Ottawa, appointed interim chair, RCMP External Review Committee, with a salary in the range of \$139,900 to \$164,500, August 1

**Paul, David** – of Perth Andover, N.B., appointed Deputy Chief Commissioner, First Nations Tax Commission, August 6

**Saccomani, Bruno** – of Ottawa, appointed Ambassador to Jordan, with a salary in the range of \$131,200 to \$154,300, August 30

**Vreeswijk, Wilma** – of Ottawa, appointed Associate Deputy Minister of Citizenship & Immigration, with a salary in the range of \$188,600 to \$221,800, Sept. 17

**Zicherman, Doris** – of Montreal, reappointed a member, Immigration & Refugee Board, Montreal Office, effective Oct. 18

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