



UNA VOCE

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- The TSO strike is over after 11 weeks. Delegate Susan Lipchak gives us the news.
- For the first time, we have an insert from the Symphonic Services Division of AFM (Canada).
- <www.ocsm-omosc.ca>
- There are two fundamental discussions ongoing in our community: employee/self-employed status and; are we a craft collective or a true union? These issues are central to the way we will be doing business in the near future. They are not new issues, but the zeal of bureaucrats has put pressure on all of the groups in our industry. We have a primer in OCSM Treasurer Steve Wilkes' OCSM Conference report, and more in the SSD insert.

We're still getting up-to-date on the summer conference schedule. President Rob McCosh kicks off this edition of UV with a report on the Canadian conference and Steve Wilkes gives the thumbnail sketch of the OCSM Conference.

1999 Canadian Conference

The Canadian Conference is an annual meeting of officers from all the Canadian Locals of the AFM, and every two years the meeting is held in Las Vegas prior to the AFM Convention. The conference has an executive with the current President being Eddy Bayens from the Edmonton Local.

President Bayens opened the conference last July by giving a summary of the past year's events. Two issues facing the conference were the financial framework of Locals and the equalization of travelling costs to the Canadian Conference. A number of concerns affecting orchestral musicians were raised: the Thunder Bay/ Revenue Canada employee/self-employed tax status issue; the withdrawal of the Mobility program to subsidize the cost of travelling to auditions, and; provincial Status of the Artist legislation.

Since the conference, a number of developments have taken place: Thunder Bay has reverted to self-employed status by operating under changed wording in their "collective agreement" (see the SSD report); the Canada Council has allocated \$15,000 for the Mobility fund; and some provinces are getting closer to Status of the Artist, notably Ontario and

Nova Scotia. It already exists in Quebec. The reason for pursuing the legislation is to gain collective bargaining for independent contractors, ie. freelancers. The Canadian Conference also hopes to standardize service from Locals with the creation of a new Local Officers manual entitled "Regulation of Internal Union Affairs".

As in the past, OCSM-OMOSC presented a number of resolutions to the Canadian Conference. One urged the conference to set up a meeting between OCSM, AFM Canada and Orchestras Canada to deal with a memo sent out by Orchestras Canada. It was a legal opinion which implied that the existence of a collective agreement was the single most damaging factor leading to Revenue Canada finding the TBSO to be employees. This opinion was faulty in our view and furthermore, as board members of Orchestras Canada, OCSM and AFM Canada were not given the opportunity for input before the memo went out. A meeting was set up at the OCSM-OMOSC Conference where we aired our concerns. Another OCSM resolution urged the Canadian Conference to ask AFM Canada to help draft a letter to U.S. orchestra managements reminding them of the AFM's policies and procedures for access to U.S. auditions by Canadians. This arose out of a number of recent refusals by U.S. orchestras to accept Canadian candidates.

Other business included a report from Local 406 President Emile Subirana regarding the use of taped music in Montreal for the production of Notre Dame de Paris. The final report was given by our AFM-EPW Fund which had an 11.3% return in 1998 with an increase in size from \$373m to \$413m. There was an increase to pensioners for the 5th year in a row; the fund now has same-sex benefits and; the trustees continue to look at short-term disability (only permanent disability is now covered) citing expense as the major stumbling block.

The Canadian Conference closed with elections. President Bayens was re-elected by acclamation, Wayne Morris from Vancouver was acclaimed Vice-President and Brian Dojack from Regina was elected Secretary-Treasurer. This year's conference will be held in Saskatoon from July 9 - 11.

Rob McCosh - President, OCSM-OMOSC

www.ocsm-omosc.ca

One of the Resolutions passed at the 1999 OCSM Conference was for the implementation of a website. The new ocsm-omosc website is now under construction. Our webmaster, Ken MacDonald (principal horn – New Hamilton Orchestra) has set up a site with a number of forums and information pages. To register, ask your OCSM Delegate for a password and have a look. If you have any comments, additions or suggestion for links, please let us know via the email addresses on the site.

1999 Conference Held in Ottawa

The OCSM/OMOSC Annual Conference, held from August 19-22, was shortened to four days from the usual five, to assist the member orchestra Locals with expenses. The 1998 Unity Conference, held in conjunction with the four other AFM Players Conferences, was held in Las Vegas with the resultant increase in costs for travel and per diem. In fairness to the Locals, the shortened four-day duration helped blend these costs.

Aside from legal agenda items, such as the Appointment of Auditor and the Election of Officers, the conference serves as a resource to hear speakers from the Government and labour as well as a face-to-face vehicle for delegates and AFM Officers and officials. The conference also acts as a forum for internal comparison and sharing of the members' contractual and business experiences from the past season of operations. The latter is done in off-the-record delegate reports, questions from the floor and further discussion in related conference items. A bound handbook of information dealing largely with the financial data and media work of member orchestras is presented to each delegate.

Theresa Brown, representing Hayhurst Elias Dudek of Winnipeg (agents for the OCSM-OMOSC Instrument Insurance Program), spoke on the premiums and status of the insurance plan. During the question period, the issue of the high costs of the instrument appraisals, borne by the insured with the requirement of renewal every two years, was raised.

Broad-based Bargaining

Michael Wright, of the Toronto law firm Cavalluzzo Hayes Shilton McIntyre & Cornish, is counsel for the AFM (Canada) Symphonic Services Division. Mr. Wright spoke to the conference topic of broad-based bargaining from the perspective of the Canadian symphonic industry. He referred to the Canadian health care system as an example: hospitals form an association and bargain centrally with nurses and clerical staff.

While this type of bargaining has its advantages, care must be given to the "cultures of different organizations." It was also acknowledged that orchestra players look at their positions in different ways. There was a consensus that broad-based bargaining be further explored to determine its possible utilization and value.

Revenue Canada and Collective Agreements

This complex and aggravating issue was placed on the agenda with regard to the 1997 Revenue Canada decision on the federal tax status of the Thunder Bay Symphony Orchestra musicians and its ramifications to this point in time. Laura Brownell, Supervisor, AFM (Canada) Symphonic Services Division, outlined and explained the groupings under provincial labour jurisdiction – employee, dependent contractor and independent contractor. The factors that decide the federal tax

status are control, ownership of tools, the opportunity for profit or loss and integration.

It should be noted that the delegates did not present a motion or resolution with reference to an official position on tax status. OCSM-OMOSC includes orchestras that are descriptive of both employee and self-employed status. There are three orchestras (Nova Scotia, Quebec and Vancouver) which are certified as bargaining units, that is, bona fide unions, within their respective provincial labour relations boards. OCSM-OMOSC is not a union and its structure is that of an incorporated benevolent association.

"Equal Pay/Equal Work"

Michael Wright and Laura Brownell jointly moderated this panel discussion which dealt exclusively with the issue of extra musicians receiving less pay than the orchestra side scale. The panelists included delegates who drew on their respective orchestra practice in this area.

In discussion, the point was made that extras pay dues to the Local, but are not represented at the bargaining table. It was also made known that two leading U.S. orchestras have extras organized into bargaining units. It was determined that extra musicians should have a voice on the negotiating committee. Split bargaining remains a problem as the Local is supposed to represent both factions.

Status of the Artist

Lorraine Farkas, a member of the federal Status tribunal, made time to appear before the delegates on short notice. Ms. Farkas represents the union side – the artists – in complaints between the union and producers or federal government agencies. She outlined the historical development of this legislation in Canada. It began in 1980, during the UNESCO conference in Belgrade, where it was determined that artists should be given collective rights. Later, in Canada, the concept was broadened into that of self-employed artists having the same rights as employees. The federal government was then pressured to pass legislation after 1987, when Québec passed its own Act.

The Status of the Artist is fashioned after the Canada Labour Code. There are provisions for notice to bargain, pressure tactics such as strikes and or slowdowns, dues check-off and mediation. Under the legislation, there is no limitation as to what can be bargained; that is, not only wages and conditions are on the table. (see the SSD report)

Core Competencies of Effective Unions

Donald Spatz, Adjunct Faculty, George Meany Center for Labor Studies in Washington, D.C. presented this seminar, which took up an entire afternoon and part of the evening. This well-prepared event, including handouts, breakouts, freakouts, discussions, arguments and a little bit of hysteria dealt with five required competencies: organizing the labour market; creating powerful bargaining structures; building appropriate governance structures; developing allies and coalitions; and, generating political and legislative influence. This last heading was not developed due to the pressure of time.

Mr. Spatz had provided quotes from Charles Craypo's *The Economics of Collective Bargaining*, including the following: "Unions must, among other things, match the economic structures of employers." If we give consideration to our own bargaining situations, we should give some thought as to the imbalance of this particular playing field in our industry.

Other guest speakers included Steve Young, AFM International President; AFM Vice-President from Canada David Jandrisch; Florence Nelson, Director, Symphonic Services Division (NYC); Betty Webster, Executive Director, Orchestras Canada; and Hubert Lussier, General Director, Department of Canadian Heritage.

In closing, it should be acknowledged that NACO Delegate and Conference Coordinator Francine Schutzman threw one rippin' party, hosted by herself, catered by herself, and (presumably) picked up by herself. The delegates were well behaved this year as there were only two or three visits by the RCMP and OCSM-OMOSC was able to make bail, although there was the usual damage to property. OCSM-OMOSC also offers its appreciation to Local #180, Ottawa-Hull District Federation of Musicians for their generosity in the delicate matter of pulpit supply.

Kind of makes one want to be there, huh? It's Calgary in 2000!

Steve Wilkes - Treasurer OCSM-OMOSC

Getting Back To Work At The TSO

The musicians of the Toronto Symphony Orchestra will no doubt remember December 8, 1999 and the events leading up to that day for a long time. Nearly 11 long weeks after walking out (September 25th) on strike, the musicians had been telephoned late the previous evening for a ratification vote at noon; however, reports in the media that talks had broken off contributed to an emotional roller-coaster

ride. As orchestra members assembled, they were informed that Len Leibowitz, musicians' legal counsel, and Nick Webster, the TSO interim executive director, had been working on a tentative deal over breakfast. An offer would be presented for a vote as soon as the negotiating team (Gary Labovitz, Audrey King, Ray Luedeke, Kathy McLean, Chris Redfield and John Rudolph) was able to do so. Stressful doesn't begin to describe the situation.

The TSO strike, the first significant work stoppage in the orchestra's 78-year history, was inevitable. In 1992, the musicians accepted a 16% cut to their annual wages (reduction of weeks from 50 to 42) - the choice was that or bankruptcy. The economy was in recession. Promises that the cut would be temporary and that the summer season would be eventually reinstated went unfulfilled - the base salary for the 1998/99 season was still 7% less than for the 1991/92 season; the number of weeks had finally increased to 44 and there was still no summer season in sight. Musicians had been actively involved with the Board and management for at least seven years in trying to help the TSO back on its financial feet. It became increasingly clear that the "fiscally responsible" bottom-line economic policies of the TSO among other things had resulted not only in an increasing deficit, but also increased levels of frustration for the musicians and a deepening distrust of the management/Board. Something had to change. It was time to "Face the Music".

The Board of the Toronto Symphony has always taken great pride in promoting the orchestra as "world class" and "first-rate"; most people would not argue with that perception. However, maintaining a "world class" orchestra requires a vision and a commitment to raise the necessary money to ensure "first-class" status. Certainly declining ticket revenue and government support had added an extra challenge to the Board's fundraising responsibilities. For many years, the effectiveness of the TSO management had been questionable. The new executive director had resigned within the year. The music director's future with the TSO had become more tenuous; Jukka-Pekka Saraste is in the last year of his current contract and will conduct only 8 weeks during the 2000/2001 season. The orchestra's highly publicized 2000 European tour, the first since 1991 (including 3 concerts in Vienna's Musikverein) was abruptly cancelled in August by the Board due to fiscal concerns; miraculously, nearly half of the original itinerary was resurrected a month later. Proposed renovations to deal with Roy Thomson Hall's problematic acoustics continue to be postponed. And how many "world class" orchestras have no summer season (a hiatus of at least 10 weeks)?

Achieving wages that could be regarded as competitive among North American orchestras was a key objective. Clearly, the TSO musicians had no other choice; the challenge to raise awareness of our situation would be costly. Solidarity among the musicians had finally emerged.

One cannot overestimate the amount of time, energy and commitment that is required for an orchestra to be on strike. The negotiating team had already spent countless hours preparing for negotiations and the possibility of a strike.

However, their efforts increased exponentially once the strike began. Making sure that the various committees - media, picket, concert, political, survival, communications, social, audience association - were in place and coordinating their activities was a major task. The awe-inspiring amount of creativity and energy that the musicians displayed made the team's efforts easier. Ideas were abundant; gradually a more focused approach to activities became the norm. Informing/educating the public is, of course, a major challenge. More important, however, is maintaining unity among orchestra members. This was the real challenge for the musicians of the TSO. For the first time, the TSO musicians were participating in the AFM Strike Fund - in U.S. dollars. Our web-site was an invaluable asset. Not only was it an important source of information, background, activities during the strike, updates for musicians, media reports, but it provided a forum for comments from the public.

Normally in a strike, picketing is one way to show and maintain solidarity; initially, picketing around Roy Thomson Hall created media attention; not only did it provide photo opportunities, but also included impromptu performances by many of the musicians. The idea of a concert by the entire orchestra outside of RTH was abandoned due to weather concerns. Nevertheless, the most effective way an orchestra can show and maintain solidarity is by performing together. Efforts were therefore concentrated on finding venues in which the orchestra as a whole or members in small groups could perform. Chamber groups performed in schools, community centres, subway stations, geriatric centres, golf clubs, labour union meetings, hotels, hospitals, synagogues, and churches. The orchestra's first concert was at the Daily Bread Food Bank during the Thanksgiving weekend. Finding other venues for the full orchestra was more problematic. Fortunately, the acoustically superior George Weston Hall at the Ford Centre in North York was made available to us. Four successful fund-raising concerts were presented there with members of the TSO sharing conducting duties. As the strike progressed, concerts were played at City Hall and Queen's Park in an effort to get the attention of the various politicians. Community involvement was a primary focus of the TSO strike. Opportunities were abundant.

Aside from local community support, letters of support and financial contributions from other orchestras in Canada and the U.S. were particularly important in keeping the orchestra unified.

No matter how busy the musicians were in the various strike activities, the fact that no negotiations had been scheduled after several weeks into the strike made many people, including TSO conductor, Jukka-Pekka Saraste, uneasy. His behind-the-scenes involvement led to a brief resumption of negotiations on November 3rd. The Board's "final-final" offer (a 5-year agreement of 46 weeks/yr. reaching \$70,000 in the final year) was rejected by the negotiating team.

Subsequent offers by various individuals to mediate were rejected by management. December and the normally successful Holiday concerts were approaching. Although no

threats had been made about cancelling the remaining TSO season if a settlement wasn't achieved before those concerts, this was a real possibility. Mayor Mel Lastman urged each side to resume negotiations.

Negotiations resumed on December 7th. The deadline, if the Holiday concerts were to be salvaged, was midnight. Before the meeting, the negotiating team was presented with a rose and a scroll from orchestra members expressing solidarity and support. As talks progressed, there was an understanding from management that demands for \$70,000 at the end of a four-year agreement would be met if certain issues could be worked out. On the expectation that a vote might be held the following day, the phone tree was activated. As most musicians were settling down to a relatively restful night of sleep, however, talks abruptly broke off. The Board would not agree to \$70,000 in the fourth year, and actually offered less than \$69,000. Disappointed and feeling betrayed, the negotiating team did not rest easily that night.

By the time of the meeting the next day, the "breakfast" negotiation had resulted in a deal. The ratification meeting was very emotional as each member of the team expressed their thoughts about the events of the previous 24 hours. Although they were unanimous in encouraging orchestra members to accept the offer (a 4-year agreement reaching \$69,000 in the final year -- an increase of 29.8% -- including an immediate \$1,000 signing bonus), it was clear that resolution of the strike was only the beginning. Had the strike really resulted in any change in the Board's attitude? Its lack of vision, its limited perception of the Orchestra's potential and its inability to generate the management and financial resources a great orchestra requires remain serious concerns. Can the Board, management and musicians forge a new and more successful future together? For their part, the musicians remain committed to that goal.

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