



# UNA VOCE

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## **Canadian Myths**

(Message from the President)

It has been so hot in Canada this summer that the House of Commons, our national igloo, is melting. But what has really caught the public's attention has been the controversial Saskatchewan whale-hunt or the use of TimBits to kill caribou. But more specific to our industry, did you know, as the delegates were told at the AFM Convention last June, that prohibiting musical theatre contractors on Canadian Locals would have tax status implications in Canada?

There's a show on CBC TV called "This Hour has 22 Minutes" and one of the most popular segments, is called 'TALKING TO AMERICANS'. The premise is this: one of the actors from the show goes to various American cities - Chicago, Atlanta, Milwaukee; Washington is a particular favourite - and, posing as a legitimate interviewer, asks questions or solicits comments on things Canadian. We have been congratulated for just recently christening the first boat in the Canadian navy. This even though at the end of World War II, we had the third largest navy in the world. The more AFM Conventions I attend the more I have witnessed this TALKING TO AMERICANS phenomenon.

This phenomenon begs two questions: why do some of the Canadian delegates behave this way and why do the Americans let them get away with it? I believe in Canada there exists an overly healthy status quo protectionism, which may stem from the mouse sleeping next to the elephant; some truly believe they don't have the same problems in their Local, which of course doesn't preclude them from happening in the

future or in some other Canadian Local; and, because the AFM in Canada is not certified, some Canadian delegates like to use the AFM Bylaws when it suits them and opt out when it does not. As for the American delegates, I have to say there is understandably a certain amount of ignorance about Canada but perhaps more to the point, they don't want to be perceived as meddling in Canadian affairs. Canada is also a nation with a justified reputation as peace-keepers and moderators – witness the Nobel Peace Prize that future Prime Minister Pearson received in 1957 for establishing the first modern peace-keeping force. Who would believe that a Canadian could be dissembling or misleading in an international arena? Newfoundlanders being the exception to the rule – and I can say that having been the only mainlander on a railway gang with 30 Newfies!

A step towards improving this situation would be insisting on Canadian legal counsel from the AFM to act as an on-site resource at the Convention. OCSM unanimously passed a resolution at their 2001 conference to ask for Canadian legal assistance at the AFM convention. We sincerely hope that the Federation will support this resolution.

Of course there are AFM Bylaws which have very valid reasons for excluding Canada. There may even be some that should be amended to exclude Canada, but excluding musical theatre contractors is not one of them. So beware the Canadian snow-job. Otherwise, dear brothers and sisters, as Orwell put it, "All animals are equal but some animals are more equal than others."

*Rob McCosh, OCSM President*

**l'Orchestre Métropolitain du Grand Montréal** is the 20<sup>th</sup> member of OCSM/OMOSC. We welcomed Delegate Cathy Martin who represented the 56 members of the orchestra at the 2001 Conference in Halifax – the first orchestra in ten years to join OCSM/OMOSC.

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## Canadian Conference and 94<sup>th</sup> AFM Convention

*We all know by now that Tom Lee unseated President Steve Young at the AFM Convention in Las Vegas last June and that Florence Nelson, former Director of the Symphonic Services Division is the first woman elected officer of the International Executive Board. OCSM/OMOSC 1<sup>st</sup> Vice-President Edie Stacey was there and she took some names.*

Prior to the 94<sup>th</sup> AFM Convention, Rob McCosh and I attended the Canadian Conference which was also held in Las Vegas. Eddy Bayens presided over two densely packed days of meetings of the Conference. Since we were in the warm embrace of the U.S. (Nevada is very warm), several presentations were made by our American cousins. Much of the talk at the Convention and the Canadian Conference concerned Electronic Media.

**Carol Sato**, Electronic Media Services Division Supervisor from the Los Angeles office, reported the extraordinarily successful recovery of \$2.5m – \$3m worth of fees from "dark date" sessions and from unauthorized use of music in TV, radio and film. Her staff of 15 literally sits for hours every day monitoring programs taped during prime time. They identify works performed by AFM members and chase after producers who have used tapes illegally. **Enex Steele** is also in LA and he administers the Phonograph Record Manufacturers Special Payments Fund. His signature appears on that mystery cheque you receive in August. He informed us that there is \$250,000 of unclaimed monies in the Canadian Fund. If you have not received a PRMSPF cheque in the past few years, Enex may not have your current address. You should get in touch with him at <info@prmspf.org>. Still on the recording front, AFM legal counsel **George Cohen** is relentlessly pursuing the recording industry for a percentage of the settlement received from Napster. It is not only the record companies that have been damaged by these acts of piracy but the artists and creators have been hurt as well.

**John Patrick**, President of the British Musicians' Union (30,000 members) spoke about the similarity in the problems facing British and Canadian Orchestras. Namely, addressing deficits through stabilization funding and the trend by managements in the UK to dispense with collective agreements by trying to hire musicians per service.

**John Morton**, President of the Federation Internationale des Musiciens (FIM) reported that FIM

and the AFM would resist the attempt to export the work to hire system where the producer ends up with control over the creator's work. In 1990, WIPO (World Intellectual Property Organization) deemed that performance is a creative work.

**Eddy Bayens** reported that Sheila Copps recently announced a \$500m boost in funding to the Cultural Sector. CBC recently received a one-time infusion of \$60m. Copps is a proponent of putting Canadian Culture on the Internet to the tune of \$108m. How much of that money will end up in artists' pockets is anyone's guess. (*Editor's note: Since the conference the new chairwoman of the CBC, Carole Taylor of Vancouver, has made it clear that symphony, opera and ballet are high on her list for new production. In an interview with the Globe and Mail, Ms. Taylor said that she's a fan of cultural programming, noting that the production of full symphonies, operas and dances are a classic example of the CBC getting back to its roots. "These are not money-makers – to put on a full-length ballet. But it's the right thing to do."*)

**OCSM** put forth two resolutions to the Canadian Conference, which were accepted. The first resolution concerned the Royal Winnipeg Ballet's use of recorded music and the second resolution urged Locals to enter into agreements with established ensembles that are not currently working under an agreement. At the OCSM Conference we learned that the RWB has signed a new agreement with the AFM, and that their policy is to engage 14 musicians for all performances, with certain exceptions. Tapes are gone.

The 94<sup>th</sup> AFM Convention was a marvel of efficiency. In a mere three days, an incredible amount of legislation was passed. In the evenings, direct appeals to the various AFM Committees to adopt, amend or oppose a recommendation were made by Officers and Representatives. It was invaluable meeting and talking with our U.S. counterparts in ICSOM, ROPA and RMA. E-mail is a great means of communication but nothing can beat sharing knowledge, information and experiences face-to-face.

*Edith Stacey, OCSM 1<sup>st</sup> Vice President*

## REPORT ON BUSINESS

There is a report on the 2001 OCSM Conference, as well as reports from the other Player Conferences, scheduled for the October *International Musician*. Please have a look at that for an overview of the Conferences. Following are the Resolutions and Motions discussed by the Delegates at the OCSM Conference, with short explanations.

**Resolution No. 1**

(submitted by the Electronic Media Committee)

Whereas, OCSM musicians are satisfied that existing AFM agreements covering the creation of Phonograph Recordings for Symphonic Orchestras, including (and specifically) CDs, are enjoying widespread and successful use; and

Whereas, OCSM musicians consider the current system of up-front payments to be the most equitable and efficient way to compensate symphonic musicians for the use of their recorded product for the creation of Phonograph Recordings; and

Whereas, OCSM musicians believe a fee structure that applies to all AFM orchestras on both sides of the border is essential to the prevention of price competition among AFM orchestras; therefore be it

**Resolved**, That OCSM urge the AFM to defend vigorously the above principles (including up-front payment) in all upcoming negotiations that involve the creation of Phonograph Recordings (including CDs and downloadable Internet product); and be it further

**Resolved**, That OCSM convey to the AFM its expectation that representatives from both the Canadian Office and OCSM will participate in all such negotiations.

*Carried Unanimously*

There has been mounting pressure from orchestra managements, record signatories, etc. to make symphonic musicians into 'royalty artists'. While recording for profit is sometimes the goal, it is rarely an achievable one. Low-price product made available to share on the Internet is not something we want to pursue. Musicians must be fairly compensated for work already performed, not saddled with profit-sharing that will likely never happen.

**Resolution No. 2**

Whereas, OCSM/OMSOC would like an opportunity to meet with its symphonic counterparts in the U.S. and abroad in order to share information; therefore be it

**Resolved**, That OCSM/OMOSC take part in the second Unity Conference, scheduled to be held in Ottawa during August 2002; and be it further

**Resolved**, That OCSM/OMOSC schedule its own annual conference to take place in conjunction with that Unity Conference.

*Carried*

Many of you will recall that OCSM participated in the first Unity Conference in 1998 along with ICSOM (International Conference of Symphony and Opera

Musicians), ROPA (Regional Orchestra Players Association), RMA (Recording Musicians Association) and TMA (Theatre Musicians Association). The next Unity is proposed to be for symphonic musicians only (no RMA or TMA) along with guests from various orchestral communities around the world.

**Resolution No. 3**

**Resolved**, That OSCM/OMOSC appoint the firm of Grant Thornton, Winnipeg, as Auditor for the 2001-2002 year of operations.

*Carried*

This is status quo.

**Resolution No. 4**

(submitted by the Bylaws Committee)

Whereas, the current OCSM/OMOSC Bylaws eliminate an important step that obviously must be necessary before a member orchestra might submit a notice of withdrawal from the Corporation; therefore be it

**Resolved**, That Article 5-2 of the OCSM/OMOSC Bylaws be amended by inserting the following at the end of that section:

c) a vote to withdraw by the members of the orchestra taken in accordance with the Bylaws of the Players' Association (or, in the absence of such Bylaws, in accordance with the Bylaws of the Local) at a duly constituted meeting of the musicians.

*Carried*

This is a deficiency in the OCSM Bylaws. There are now three conditions for allowing the withdrawal of a member orchestra. Section 2c as it appears above does not scan, but keep in mind that it is prefaced by, "Such withdrawal shall be conditional upon the following: a)...b)...c)." The issue was raised in response to the procedure now in place for approving the membership of a new orchestra, which is further addressed in Resolution No. 7.

**Resolution No. 5**

(submitted by Delegate Simon Jacobs)

Whereas, OCSM/OMOSC specified at its 2000 Annual General Meeting that the determination of which extra positions in an orchestra should qualify for Professional Membership; and

Whereas, The qualification as expressed in the current OCSM/OMOSC Bylaws is so broad as to conflict with that expression of the will of the Conference; therefore be it

**Resolved**, That the first sentence of Article 5-2 of the Bylaws be amended by striking the words “musicians performing in” and inserting the words “the regular members—plus such extra musicians as the orchestra’s members or delegated agent(s) shall choose to include—of” in their stead.

*Failed*

This resolution did not achieve the two-thirds majority necessary for a Bylaws change. The intent of the resolution does, however, reflect current practice in most of our orchestras. Many extra players wish to join OCSM for the insurance program, or some other reason, and at the moment it is not codified exactly who is eligible other than the contracted players.

**Resolution No. 6**

(Submitted by the Executive Board)

Whereas, The delegates to the AFM Convention and Canadian Conference need a Canadian on-site legal resource to help them in their discussions and determinations on the issues facing the Convention and /or Canadian Conference; and

Whereas, presently the legal counsel to the Canadian office of the AFM does not, as a matter of policy, attend the AFM convention nor the Canadian Conference in convention years; therefore be it

**Resolved**, That OCSM/OMOSC call upon the AFM to pay, as a matter of policy, the applicable cost of sending the legal counsel of the AFM Canadian office to the AFM Convention and the Canadian Conference.

*Carried*

Refer to the Message from the President for an explanation of this resolution.

**Resolution No. 7**

as amended read

**Resolved**, That in Article 11, Section 2 the words “two-thirds of the Delegates present at the Annual General Meeting” be replaced by “a majority vote of the Executive Committee of OCSM/OMOSC following consultation with the representatives of OCSM/OMOSC member orchestras”.

*Carried*

The problem with waiting until the annual conference to approve the application of a new orchestra is that the orchestra's Local has already gone to the expense of sending a delegate, ostensibly as an observer. There are strict criteria for admission to OCSM and no orchestra would be invited to the Conference if their

membership were not assured. This resolution allows the OCSM Executive to approve an application, with the new orchestra being guaranteed a seat at the table for the opening of the annual conference. Article 11, Section 2 of the Bylaws now reads: "An orchestra shall become an OCSM/OMOSC member orchestra upon approval of a majority vote of the Executive Committee of OCSM/OMOSC following consultation with the representatives of OCSM/OMOSC member orchestras. Thereupon, the new member orchestra shall have the right to seat a Delegate."

**Motions adopted unanimously**

**by the 2001 OCSM/OMOSC Conference**

**Moved**, That the 2001 OCSM/OMOSC Conference recognize David Otto for his many years with OCSM/OMOSC including his contribution as Data Bank Operator in an appropriate manner.

David Otto was involved with OCSM from the late 1970s until he filed his last Data Bank Operator's report to the 2000 Conference. We owe him many thanks for his work in setting up and maintaining the Conductor Evaluations Data Bank, and for his devotion to symphonic music and musicians. He is still singing in the choir in Edmonton and we hope that he will be singing for a long time to come.

**Moved**, That the 2001 OCSM/OMOSC Conference recognize Florence Nelson for her enormous rôle in counseling and shaping the OCSM/OMOSC community of orchestras, and wish her the greatest success in her new rôle as Secretary-Treasurer of the American Federation of Musicians of the United States and Canada with full confidence that such success will follow naturally from her unique blend of talent, integrity, empathy, and perseverance.

Congratulations to Florence Nelson. Thanks for all of the work you've done on behalf of musicians all over North America as Director of the AFM Symphonic Services Division. We also offer our best wishes for success to Janice Galassi, the new Director of SSD in New York.

**LATE NEWS** – For current information on the situations in Calgary and Toronto, visit their websites:  
<[www.cpomusicians.org](http://www.cpomusicians.org)>  
<[www.tsomusicians.com](http://www.tsomusicians.com)>

Their websites are also linked through <[www.ocsm-omosc.ca](http://www.ocsm-omosc.ca)>