

BULLETIN

of the
U.S. BRANCH
INTERNATIONAL SOCIETY for LABOR and SOCIAL SECURITY LAW

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Notes from the Chair

Steven L. Willborn

The Conference on Comparative and International Labor and Employment Law, organized and subsidized by our branch of the ISLSSL, and hosted at the Northwestern University School of Law on May 20, was well-received by everyone who attended. The program and speaker list is on our website: law.unl.edu/islssl. As you will see, the topics were interesting and the speakers were highly qualified. The Daily Labor Report on May 22 (at 97 DLR A-4) published a summary of the morning session of the conference. (Look for Ken May's article "Union Leader Sees Possibility of Changed Chinese Labor Union.")

Many people and entities helped with this event. Let me thank them again here. First, Dean David Van Zandt and the Northwestern Law School were very generous to provide us with an attractive space for the event itself and a very helpful and cooperative staff. Second, the Program Committee did a wonderful job of conceptualizing the program and getting speakers. The Committee, chaired by **Alvin Goldman**, received vital help from Professors **Matt Finkin**, **Lance Compa**, **Ted St. Anotine**, and **Susan Bisom-Rapp**. Third, the law firm of Baker & McKenzie (and, in particular, **Andrew Boling**) generously sponsored our lunch. Finally, the National Academy of Arbitrators and the Canadian Branch of the International Society were co-sponsors and aided in publicizing the event. Thank you to all of these folks for making this event possible.

As always, we are interested in your feedback on this type of event, and on our organization generally. This is the second time we've hosted an event like this. Do you think it's a good idea, or should we be thinking of other kinds of activities? More generally, are there things we should be doing to increase the vitality of our organization?

US Branch Election Results

The Nominating Committee (**Andrea Christensen**, **Steve Befort**, **Alvin Goldman**) reports that

as a result of our recent election, the Branch's National Executive Board members are:

Stephen Befort, **Janice Bellace**, **Ronald C. Brown**, **Andrea S. Christensen**, **Lance Compa**, **Barbara J. Fick**, **Alvin Goldman**, **William Keller**, **Thomas Kohler**, **Martin Malin**, **Stephen Moldof**, **George Nicolau**, **Dennis Nolan**, **Calvin Sharpe**, **Katherine Stone**, **Clyde Summers**, **Rebecca White**, **Steven L. Willborn**, **Thomas Wilson**, and **Arnold Zack**. In addition, the Executive Board has re-elected the following officers Chair- **Steven Willborn**, Vice Chair- **George Nicolau**, Secy-Treas.- **Alvin Goldman**, Journal co-editors- **Matthew Finkin** and **Sanford Jacoby** who, as officers, are also Board members.

Changes in United Kingdom's Employment Dispute Resolution Laws

The United Kingdom's Employment Act 2008 modified aspects of that nation's employment disputes, minimum wage and union membership laws. This summary describes key changes made to the employment disputes law.

As background to understanding the changes, it should be understood that "employment tribunals" in the UK are administrative adjudicative bodies that determine disputes relating mainly to individual employment rights including unfair dismissal, wage claims, and employment discrimination. The tribunals are three member panels consisting of an experienced law trained member (who chairs the panel), a member appointed after consultation with employer organizations, and a member appointed after consultation with labor organizations. However, a single judge may decide such cases. Tribunal decisions are subject to a discretionary administrative review.

Another important entity in the UK's employment relations system is the Advisory, Conciliation and Arbitration Service (ACAS), an independent government funded council whose members include persons drawn from management, unions, and academics. Its primary activities are to provide impartial counseling in response to inquiries concerning rights respecting work place issues and to conciliate

in both collective and individual disputes. (Most conciliations handled by the ACAS's large staff involves the latter.) Under the new law, non mandatory conciliation is an available preliminary step to submitting a dispute to an employment tribunal. In recent years about 75% of conciliated disputes have been settled or withdrawn without ever reaching a tribunal hearing.

The new law requires the ACAS to adopt a Code of Practice recommending sound procedures for the resolution of disputes within an employment establishment. Recently adopted guidelines require a grieving employee to be heard by management after a disciplinary issue arises and before a decision has been made. In addition, in meetings at which disciplinary action will be weighed, the Code outlines a statutorily based employee right to be accompanied by a union representative or by another who can assist in presenting the employee's evidence and position. The Code also calls for employees to be informed of the complaints against them and supporting evidence before attending such meetings and both sides must give advance notice of any witnesses who will be questioned at the meeting and advance copies of any witness statements that will be used. Further, management has a responsibility to fully investigate before making a disciplinary decision and to use progressive disciplinary measures except in instances of gross misconduct. Finally, all disciplinary actions must be accompanied by an explanation for the action and the Code recommends that employees be given an opportunity to have their case reviewed by a manager not involved in the decision.

The Code is not directly enforceable. However, in order to provide an incentive to follow Code practice, employment tribunals are authorized to increase or decrease awards to employees by up to 25% if the employer or employee unreasonably failed to comply with relevant Code of Practice provisions (which apparently includes willingness to submit to conciliation).

An additional interesting aspect of the new law is that in the event of wrongfully withheld payments or wrongful pay deductions, an employment tribunal must make a wronged employee whole not only for lost earnings but for all other financial loss suffered as a result of the employer's default.

Copies of the Act, the accompanying explanatory notes, and the ACAS promulgated Code of Practice can be downloaded at:

<http://www.berr.gov.uk/whatwedo/employment/employment-legislation/employment-bill/index.html>

Up-Coming ISLSSL Conferences

The next world congress of the International Society will be held in **Sydney, Australia**, from **September 2-4, 2009** at the Sofitel Wentworth.

The conference has three themes:

Theme 1: Regulatory frameworks and law enforcement in new forms of employment.

Theme 2: Workers' representation and social dialogue at the workplace level. General

Theme 3: Emerging patterns of social protection in light of structural changes (aging population, changing family structures, immigration, budgetary constraints, political and ideological realignments).

In addition, Prof. **Gillian Lester**, University of California-Berkeley, will chair a round table on "Work and Family Life."

The previously announced early-bird registration rate is no longer available (as of mid-June). The current registration rates in U.S. dollar equivalents is approximately \$743-participants, \$473-students and \$258-accompanying persons. The congress web site with detailed information is: <http://www.labourlawsydney.com/>

Immediately prior to the Society's world congress, the International Industrial Relations Association will hold its world congress—also in Sydney. (See below.)

-May 25 to 28, 2010: Cartagena de Indias, Colombia, VIII Americas Regional Congress of Labor and Social Security Laws. This conference will be structured on three themes for national reports and discussion: "The Future of Public and Private Pension Systems in the Light of the Worldwide Crisis." (General reporter Prof. **Carmelo Mesa-Lago** of the U.S. Branch); "New Forms of Employment and their Impact on Individual Employment Relations, Collective Relations, and Social Protection of Workers"; "The Protection of Worker Privacy at the Workplace". Included in the program will be roundtables on "Public and Private Systems of Settlement of Individual and Collective Labor Disputes" (**Steven Willborn**, co-reporter) and "The Use of International Law by National Courts in the Adjudication of Labor Disputes". Finally, there will be a keynote speech on "Strikes in the Public Service". Web site: www.colegio-abogados.org.co

-The Society's Xth European Congress will be held in **Seville, Spain**, in **2011**; and **Santiago de Chile** will host the XXth World Congress in **2012**.

Conferences of Other Organizations

August 14-15, 2009- Stanford Law School will host “International Labor Standards, Rights and Beyond.” Organized by Prof. **William Gould**, the conference will examine the development of international labor standards and rights with topics including ideas about transnational labor citizenship, country-specific labor programs linking trade and labor rights, freedom of association, the right to strike, and the roles of the World Trade Organization, the International Labor Organization and private codes of conduct established by non governmental organizations.

General tuition \$495. The conference web site is at: <http://www.seeuthere.com/rsvp/invitation/invitation.asp?id=/m2c523-4TP2R1J5AU9T5>

-The 17th Annual International Employment Relations Association (IERA) Conference will be held in **Bangkok, Thailand**, from **June 30 to July 3, 2009**.

The program is organized by Mahidol University, Thailand, and the University of Technology, Sydney. The conference theme is “Advancing the quality of HRM and HRD in the Global Economy.”

Further information is available at: <http://www.iera.net.au/>

- **Aug. 24-28, 2009**, Sydney Convention and Exhibition Center, **Sydney, Australia**, XVth World Congress of the International Industrial Relations Association.

The themes are:

Track 1: Management, Work and Organization

Track 2: Voice and Representation

Track 3: Work, Family and Community

Track 4: Institutions, Processes and Outcomes

Track 5: New Forms of Work

Registration for members is \$300, non members \$350, students \$150, accompanying persons \$80. Additional information is available at: <http://www.iceaustralia.com/IIRA2009/>

-The 9th IIRA European Regional Congress will be organized in **Copenhagen** from **June 28 to July 1, 2010**, at the University of Copenhagen.

-The 7th IIRA Asian Regional Congress will be held in **Indonesia** in **2010**.

Conference Launching New Journal

The *European Labour Law Journal*, a quarterly, was launched at a conference on “The Future of Labour Law in Europe”, held in Brussels on June 5, 2009. Featured speakers included Marie-Ange

Moreau, European Institute, Florence; Birgitta Nystrom, University of Lund; Csilla Kollonay, Central European University of Budapest; Ruth Nielsen, Copenhagen Business School; Bernd Waas, University of Frankfurt; Valeria Pulignano and Frank Hendrickx, University of Leuven. The final session was a debate among representatives of the European Commission, ETUC, and BUSINESS Europe on *The future of labor law in Europe: which way ahead? National and/or European? Legislative and/or contractual?*

The new journal is dedicated to topics dealing with European labor law and policy, cross-disciplinary investigations relating to labor law in Europe, and international labor law developments relevant to European labor law. Journal contributions will be subject to double blind peer review. Other features of the journal will include book reviews and news of European and international labor law developments. Submissions can be sent to Prof. Hendrickx, the journal’s general editor, at F.Hendrickx@uvt.nl

For information about subscribing to the journal, contact the publisher at: mail@intersentia.be

Other Member Activities

Prof. **Ron Brown** has a chapter in a new book, published in India entitled *COLLECTIVE BARGAINING: A GLOBAL PERSPECTIVE*, ed. P.L. Jayanthi Reddy, published by Amicus Books, the Icfai University Press (2008) [ISBN: 81-314-1354-3]. Ron’s chapter is about collective bargaining in China and was the foundation for his talk at the Branch’s May 20th conference in Chicago.

**IF YOUR DUES BILL IS ENCLOSED,
PLEASE PAY IT PROMPTLY.**