

FACULTY UNION NEWS

SAINT MARY'S UNIVERSITY

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NOVEMBER 2007



Report of the President, Saint Mary's University Faculty Union, Presented at the 2007 Annual General Meeting

Introduction

Before I begin I would like to take this opportunity to especially welcome those of you who are recent arrivals at Saint Mary's and new members of the Union. I am going to take it as a good sign that you are here, that you are interested in the Union and what it can do for you, and that you will, at some point, make an active contribution to it. It is a great organization, one of the oldest and strongest faculty unions in Canada, and I am very pleased to be able to serve as its President this year and also proud to be the first librarian to do so.

One of the things I am sure you will soon discover is that the Union, and the Collective Agreement which it protects, will play, both subtly and dramatically, a prominent role in your academic life – providing guidelines and support for your teaching, research and involvement with the University and wider community. Our Collective Agreement represents the combined efforts of a great many women and men who, over the years, have contributed, through hard work and tough negotiating, to the outstanding document we now possess.

I should explain, by the way, that what follows is not really an annual report but more of a semi-annual report. At some point in its history, SMUFU decided to have Executive members assume their posts in April rather than at the AGM. So I am actually reporting on what I have done -the issues, dilemmas, crises and resolutions – for about half a year.

Those of you who have served in any capacity with the Union, or who can claim many years membership in it, will be aware of the staggering variety of issues with which the Union must deal. The fact that this is a non-negotiating year has hardly stemmed the tide of inquiries, interpretations, investigations, interventions, problems, complaints and expressions of gratitude that the Executive is handling at any given time. I would like, therefore, before proceeding any further, to publicly thank the



Photo by Bob Cook

outstanding members of this year's Union Executive: Past-President Larry Haiven, Chief Negotiator Vic Catano, Grievance Officer Doug Vaisey, Vice President Marc Lamoureux, Secretary Sally Wood, Treasurer Jeff Power and Members-at-Large Cindy Harrigan, Sean

Kennedy, and Peter Twohig. The value of their experience, advice, professionalism and skill cannot be underestimated. And, of course, special mention must be made of the Union's Administrative Assistant, Karen Crowell. We are very fortunate to have someone who can not only handle all of our day-to-day paperwork and communications but who also shares with us a dedication to the welfare and well-being of SMUFU members.

I would also like to recognize, on your behalf, all those Union members who serve on the various and sundry committees on campus, including those who represent our interests on the URC, Senate and Board of Governors.

Time does not allow me to address all of the many issues to which I have been exposed these past six months. I will therefore restrict myself to a discussion of those major ones which I feel have the greatest impact on our academic lives and, let's face it, most aspects of our lives, both presently and in the immediate future as I see it un-

folding. They are, in no particular order:

Benefits – you will recall that in the last round of negotiations we were successful in gaining Union control of the health and insurance benefits which our members enjoy. The landmark creation of our Benefits Trust is a model which has sparked the interest of our counterparts at other faculty unions in the country who understand with us the value of making our own informed decisions on the nature, costs and distribution of these benefits.

As you can appreciate, this is also a very complex and multi-faceted issue, encompassing many financial, administrative, legal and coverage decisions. A further complication is that we must also reach agreement with the University on the precise size of the outstanding surplus, rightfully ours, which we will inherit and which will form the monetary basis for the birth and growth of our plan. We are still negotiating this with the University and its partners and hope to reach a resolution of this very soon.

Fortunately, the Union can rely on the fact that we have experienced and capable faculty members, led by Bob Kopasky, comprising our Benefits Trust.

Retirement – This is a major issue of great importance, affecting all of our members regardless of age or experience. The three inter-related aspects to this issue which I would like to discuss are a) the *Early Retirement Incentive Plan* (or ERIP), b) the, what I believe to be ill-named, *Post-Retirement Re-appointment*, and c) the abolition of *Mandatory Retirement* in Nova Scotia.

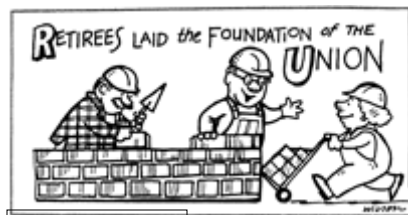
The *ERIP*, formally enshrined in our collective agreement for the first time, permits deserving faculty members and librarians who have met the eligibility criteria of age and service to enjoy retirement before the age of 65. However, in this first year, not all those who applied for this opportunity were granted it by the University. The language in the relevant article in the Collective Agreement is such that the University has a great deal of leeway in the interpretation of its financial costs and commitments, resulting in the denial of the ERIP to some of our members. The Union must begin working with University Administration on the achievement of a clear, accurate and mutually agreed-upon understanding of the accounting ramifications of ERIP verdicts so that as many as possible of our members who are desirous of its benefits can enjoy them when they want them.



Photo by Bob Cook

The *Post-Retirement Re-appointment* is, again, a new, hard-fought enhancement to the Collective Agreement. This opportunity to continue working past the “normal” retirement age of 65 is not without its significant drawbacks: namely a reduction in salary, ineligibility for membership in the university pension plan, ineligibility for sabbatical leave, and a specified maximum duration of 3 years. In spite of this, two of our members who turned 65 this year did take advantage of the chance to continue as valued teaching faculty, an opportunity they would not have had under the previous Collective Agreement. Of course, this benefit was negotiated and agreed upon just months before the unforeseen introduction of provincial legislation which will profoundly impact not only this clause in the Collective Agreement but the future working lives of many of our members.

The abolition of *Mandatory Retirement* across virtually all employment sectors in this province is imminent. This change is merely in step with the earlier enactment of similar legislation in most Canadian provinces and territories and is rooted in recognition of mandatory retirement as a denial of a basic human right. The Canadian Association of University Teachers (CAUT) has, in a policy statement from April of this year, expressed their official opposition to mandatory retirement. The *Act Respecting the Elimination of Mandatory Retirement in Nova Scotia, Bill No.163* has been passed in the legislature and will come into force on July 1, 2009. I would like to re-assure the general membership that the abolition



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of mandatory retirement has not led to undue problems or difficulties at other Canadian schools. At a presidents roundtable discussion at the CAUT meetings in Ottawa in June which I attended, along with my counterparts from across the country, it was clear that faculty at Canadian universities have adapted very easily to the elimination of mandatory retirement.

In a few years, the question of retirement here at Saint Mary's should be much clearer. But what about those currently on the aforementioned post-retirement re-appointment? What happens to them when their 3-year agreement expires in 2010? Will they have their full salary and access to sabbatical leave returned to them? Like-

wise, those who receive it this year or who must apply the following year? Because of these many questions I have suggested that a special ad hoc committee on retirement be established to study, investigate and make recommendations on these related issues.

Two final things on retirement: I wanted to remind everyone of the newly-created Saint Mary's University Retirees' Association, spearheaded by John Young, which allows retired faculty and librarians to maintain a connection with the University and which, by the way, is also open to those within a few years of retirement.



It was also suggested to us that the Union should more properly thank those of our members who do retire from academic life. We will thus be holding our first formal, but fun, dinner and social event to recognize re-

tirees. This will be held in late April or early May and all members of the Union will be invited to attend - details to follow.

Grievances – Of the different contract violations, differences of opinion or interpretation, or general conflicts which inevitably occur in an academic environment of this size, very few reach the level of official grievance. Most can be resolved informally, through the active mediation of the members of the Grievance Committee, led by Doug Vaisey, and the Union Executive. I am told that this year has seen a greater than usual number of claims brought to the Union's attention. These range from the minor to the major, involving a few dollars or a member's career. I would like to encourage all members to familiarize themselves with their Collective Agreement, especially the revised articles, and to educate themselves about their rights and the University's responsibilities to them. And I would like to encourage all members, whenever they have a problem or question or need assistance, to approach myself, or any member of the Executive or the Grievance Officer, with their concerns. The interests of our members are protected and the content of the Collective Agreement is strengthened when it is enforced.

There are currently only a few grievances outstanding. But there is one in particular of which the Union Executive, and the department affected, would like to make you aware. Our concern lies with the unique nature of the circumstances giving rise to this grievance as well as any larger, potential implications which it may have. It involves a case in which both an academic department and the University Appointments Committee, after following the standard procedures outlined in the Collective Agreement, recommended the same candidate for a 3-year tenure track position. However, much to the dismay of the candidate and members of the Department, the appointment was denied

by the University President. At the request of the unsuccessful candidate, who at the time was a SMUFU member, a formal grievance was launched. The grievance was based on a number of what we felt were procedural irregularities. In addition, the Union Executive felt that, while the Collective Agreement does provide for a final decision on appointments to rest with the President, this particular decision, which was contrary to the considered and informed recommendations of both the Department and the University Appointments Committee, breaches the spirit of collegiality in the Collective Agreement. Attempts to reach an informal resolution of this matter have so far proven unsuccessful and we are currently at the point of finalizing the composition of an independent three-person arbitration board, which will investigate the case and render a binding decision. We are anxious to see the outcome of this grievance.

Other issues

Students - In recognition of our mutual concern for the welfare and success of Saint Mary's students, the new Executives of the Union and the Saint Mary's University Student Association (SMUSA) at an early stage agreed to work together to explore ways of improving the student campus experience. Members of the SMUSA Executive have appeared at Union Executive meetings. Also, we held a joint informal get-together to discuss issues and another such meeting is scheduled for the coming week. The Union also joined with other campus groups to help SMUSA launch its much-admired opportunity bursary by making a \$20,000 contribution. Last month, a deserving student was the first recipient of the benefits of this new initiative.

External Relationships – The Union, and therefore its members, are part of a wide local and national organized labour network to which we make many contributions and from which we derive many benefits. The Canadian Association of University Teachers, the national umbrella organization to which we all belong, has been an invaluable resource, having been called upon for information and advice on numerous occasions. CAUT headquarters in Ottawa also hosts semi-annual meetings, networking and educational events for union presidents, issue-specific workshops and other opportunities to meet and share ideas with our counterparts across the country, many of them facing the same challenges as ourselves. In May, Vice-President Marc Lamoureux and I attended the Spring CAUT Council meeting and I will be returning for the Fall meetings next month.

I had the pleasure of attending a New President's Workshop in June, which was a great learning experience, and

I will be attending a second, similar event in January. Vic Catano is an active member of the CAUT Executive, serving as Chair of its Academic Freedom and Tenure Committee.

SMUFU also belongs to NUCAUT, the National Union of the Canadian Association of University Teachers, which promotes the interests of academic staff in the Canadian Labour Congress and whose meetings I have attended on your behalf.

At the local level, SMUFU belongs to ANSUT, the Association of Nova Scotia University Teachers, which allows us to explore issues with other faculty groups in this province. Paul Bowlby has been our representative on ANSUT and Vice-President Marc Lamoureux is currently serving a term as its President.

Earlier this year, Past-President Larry Haiven represented us at the meetings of the Halifax-Dartmouth Labour Council and Larry will be a delegate to the bi-annual conference of the Nova Scotia Federation of Labour later this month.

As tangible expressions of our solidarity with local and national academic staff, earlier this year we made a donation to Bishop's University's Faculty Association during their strike action and, earlier today, to the Acadia University Faculty Association as they struggle to attain a fair and reasonable contract. All of this involvement with like-minded labour groups strengthens our Executive, our membership and our Union.

Opportunities – As is readily apparent, there are many opportunities for members to lend their talents to the Union. Not only are there Executive positions available each year, but there are many internal, external and University committees, dealing with such things as scholarships or pensions, social benefits or occupational health and safety. We will also be forming an ad hoc committee very soon to work with the Student Association on the issue of campus food services as the University's contract with the current provider is up for renewal. Next week we will be sending out an e-mail inviting your applications for those committee positions for which we currently have vacancies.

Deceased Colleagues - Unfortunately, as is usually the case, each year sees the passing of members, or former members, of the Union. Dr. Lawrence Murphy taught in the Religious Studies Department at Saint Mary's for many years and was a very active member of the university community. Dr. Terry Whalen of the English Department also passed away since our last meeting. Terry was an excellent teacher, much admired by students and faculty alike.

Conclusion – In conclusion, I would like to thank the gen-

eral membership of the Union – for your support during the last round of negotiations, your committee work, attendance at meetings and your ongoing concerns about the conditions in which you and your colleagues labour. As members of a faculty union we are all in the unique situation of being able, especially in times of appointment, promotion and tenure applications, to contribute positively to the working lives of our union sisters and brothers. The support that we provide one another on a day-to-day basis, as well as at such critical career stages, benefits us all. With a strong Collective Agreement and a dedicated membership, the Union is well equipped to meet any and all future challenges.

Thank you.

Submitted October 19, 2007

Ron Houlihan, President



A supreme decision: Collective bargaining as a constitutional right by Elaine Bernard/Our Times/CALM

It's not often that labour celebrates a decision by the courts, but a June ruling by the Supreme Court of Canada, in a case involving health care unions and the British Columbia government, is a notable exception.

Proclaiming collective bargaining as a "constitutional right" supported by the Charter of Rights and Freedoms, the Supreme Court has rendered a landmark decision.

The decision is 135 pages, but is well worth the read for its analysis and review of the history of the Court's thinking on freedom of association and collective bargaining. In an important reversal, the Justices declared that earlier court decisions refusing to recognize freedom of association as including the right to bargain collectively "do not withstand principled scrutiny and should be rejected".

This sudden recognition by Canada's highest court of collective bargaining as a fundamental right may breathe new life into ailing labour rights in Canada. As well, it may put provinces and the federal government, always quick to introduce legislation limiting and undermining collective bargaining rights of workers, on notice that the Court has a new-found appreciation of the role of collective bargaining in promoting the core values of "human dignity, equality, liberty, respect for the autonomy of the person and the enhancement of democracy."

This case arose out of a January 2002 attack by B.C.'s Liberal government on the rights of unionized health care workers. The government gutted health care workers' collective agreements and placed limits on the unions' future

ability to re-establish rights lost through the unilateral government action.

The Court's decision is a much delayed victory that sends health care workers and their union back to the bargaining table. The Court has suspended its decision for one year "to allow the government to address the repercussions of this decision," but it has done nothing to redress the tremendous loss experienced by B.C. health care workers. With about 8,000 workers having been fired so far, and thousands more having had their wages and benefits slashed, bargaining promises to be very contentious. And the Court reminds us that collective bargaining is "a limited right," a "right to a process" and not a guarantee of "a certain substantive or economic outcome."

In recognizing collective bargaining "as the most significant collective activity through which freedom of association is expressed in the labour context," the Court reversed 20 years of Supreme Court decisions. The Justices argued that workers coming together to negotiate their terms and conditions of employment has a long history in Canadian labour relations. Quoting numerous labour scholars and historians, the decision reviews the long legal battle to establish labour and bargaining rights for workers in Canada. In a ringing endorsement of bargaining expressed in the language of human rights, they conclude that, "the right to bargain collectively with an employer enhances the human dignity, liberty and autonomy of workers by giving them the opportunity to influence the establishment of workplace rules and thereby gain some control over a major aspect of their lives, namely their work."

Future decisions on labour relations issues may be possible because of the Court's explicit and detailed rejection of the argument from earlier Charter labour cases that collective bargaining and the right to strike are "modern rights" created by legislation, and not "fundamental freedoms." In this B.C. case, the Court contends that "long before the present statutory labour regimes were put in place, collective bargaining was recognized as a fundamental aspect of Canadian society." Legislation did not create collective bargaining, but legislation eventually came to protect bargaining because of its "fundamental importance" to society. One might make the same case for the right to strike.

Unfortunately, this case did not involve the right to strike and so it remains an open question whether the Supreme Court, in a future case, will recognize "the right to strike" as a constitutional right. Like collective bargaining, the right to strike "is consistent with, and indeed, promotes other Charter rights, freedoms and values" and therefore deserves to be recognized and protected by the Charter.

Elaine Bernard, a labour educator from Canada, di-

rects the Labor and Worklife Program at Harvard Law School. Our Times is an independent, pro-union Canadian magazine dedicated to promoting worker's rights and social justice. www.ourtimes.ca

Fruit of labour

CALM

"Labour is prior to, and independent of, capital. Capital is only the fruit of labour, and could never have existed if labour had not first existed. Labour is the superior of capital, and deserves the much higher compensation."

– Abraham Lincoln, State of the Union message, 1861



SMU Retirees Association

by Ron Cosper

Saint Mary's University Retirees' Association was formed in 2005 to meet the needs and concerns of faculty and staff at the University who are already or nearly retired. Membership is open to anyone within 6 years of retirement, and



CLC/CALM

meetings are open to all interested persons. (Fees for 2008 are unchanged at only \$10 per member.) The group provides informative sessions to members on issues such as health insurance and post-retirement pension management. We also are now working with the Quarter Century Club to organize socially and culturally oriented activities. Our first event, tentatively scheduled for November 28, will be a reception and discussion of pension investment, with a focus on income splitting, long term care, and estate planning.

This is obviously a critical time for retirees, both at Saint Mary's and in Canada as a whole. More and more persons are retiring, and we are concerned both individually and collectively about the economic, health and life style issues that affect us. SMURA was formed only in 2005, but it is affiliated with C.U.R.A.C., the College and University Retirees' Association of Canada, which represents 35 different associations across the country. In addition to the meetings of our own association, C.U.R.A.C. holds both regional and national meetings to discuss issues of concern to retirees and serve as a lobbying group to influence government policies and decisions.

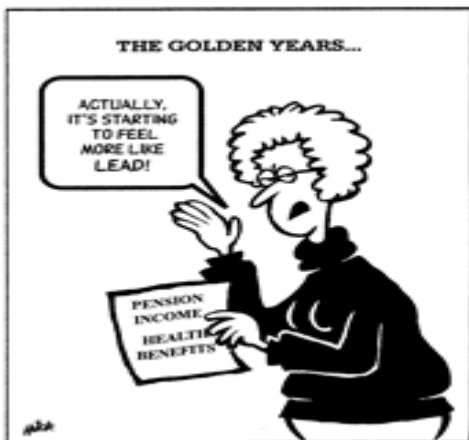
At Saint Mary's, older policies of mandatory retirement have been under reconsideration and revision. There is no

longer a required date for retirement in most American universities, and in many jurisdictions in Canada. Many older faculty either want to continue working, or to work at a reduced level. SMURA has been working with the Administration here to improve conditions for retirees. We will have access to the library and Internet, and have a small office to use while on campus. We still have no access to research funds or any parking on campus.

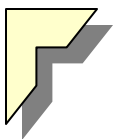
This year we plan information sessions again on pensions and on issues such as income splitting and medical insurance, since access to the supplementary Blue Cross plan ceases upon retirement.

SMURA looks forward to further development and improvements for retirees at Saint Mary's, and to working with SMUFU. After all, all faculty will be undergoing retirement, and it is to everyone's interest to work for quality in this phase of one's academic career.

For further information, check our web site, <http://www.smu.ca/retirees/> and accessible from the Saint Mary's home page under faculty and staff, general information. Any officer or board member will be happy to talk with you, as well.



CLC/CALM



Important voice for women's equality lost CLC/CALM

The National Association of Women and the Law (NAWL) shut its offices and laid off staff in the wake of government funding cuts.

In response, the Canadian Labour Congress is asking the federal government to reverse budget cuts that have devastated progressive women's groups across the country and immediately reinstate the equality mandate for Status of Women Canada.

"The National Association of Women and the Law has a

proven track record of getting results for women through careful research and principled calls for change when that research pointed toward a better deal for women in Canadian society," said Barbara Byers, executive vice-president of the CLC.

Byers says the closure of NAWL's offices and its relegation to a back room with volunteer resources is a sad development that diminishes an important voice in Canadian society.

Women's organizations like NAWL have played an important role in demonstrating why federal and provincial government should consider changing laws, policies and practices that discriminate against women. Through their dedicated work, reforms such as the inclusion of maternity benefits under Employment Insurance, amendments to human rights laws to prohibit sexual harassment and discrimination based on pregnancy and sexual orientation and the criminalization of wife assault became realities.

"Governments who placed a high priority on women's equality and the elimination of discrimination recognized the value of what organizations like NAWL had to offer. Constructive criticism is a fundamental part of parliamentary democracy, which is why groups like NAWL found financial support through Status of Women Canada. The removal of that support, abruptly and without consultation by the new government, has silenced another voice for equality," said Byers.

Tricky diagnosis Internet/CALM

A woman went to her doctor complaining of pain. "Where does it hurt?" asked the doctor. "I hurt all over," said the woman. "Try and be a little more specific," said the doctor. The woman touched her right knee with her index finger and yelled, "Ouch, that hurts." Then she touched her left cheek and again yelled, "That hurts, too." Then she touched her right earlobe, "Ouch, even that hurts!" she cried. The doctor pondered for a moment and then told her, "You have a broken finger."

**The Dr Geraldine Thomas Educational Leadership Award
and
The Father Stewart Medal for Excellence in Teaching Award**



Photo by Paul Darrow

On May 25, 2007 at the University's Convocation Dr Shelagh Crooks, Philosophy Department, received the Dr Geraldine Thomas Educational Leadership Award and Dr Steven Davis, Anthropology Department, received the Father Stewart Medal for Excellence in Teaching

**Canadian Association of University Teachers
Dedicated Service Award**



Photo by Karen Crowell

On October 19, 2007 at the SMUFU Annual General Meeting, Ron Houlihan presented the Canadian Association of University Teachers Dedicated Service Award to Dr Victor Catano and Dr Geraldine Thomas. The Dedicated Service award recognizes the exceptional service Vic and Geraldine have given to the Faculty Union.

UNION LIBRARY

The following items have been added to the library available to members in the Union Office:

Newsletters:

AUFA Communicator—Vol. 14, No. 4, June 2007

CAUT Newsletters & Publications:

- Bargaining Advisory— Annual Reports and Annual Reviews—No. 19, 20-May 2007
- Bargaining Advisory— Discipline — No. 19, April 2007
- Bargaining Advisory-Market Differentials/ Supplements—No. 21, September 2007
- Bargaining Advisory—Provision of Equipment for Academic Staff—No. 22, September 2007
- Bargaining Advisory—Retirement—No. 23, September 2007
- Bargaining Advisory—Pro Rata Appointments and Contract Academic Staff—No. 24, October 2007
- Education Review—The Slow Recovery: University Finances, 2005-2006—October 2007, Vol. 9 No. 2.
- Facts & Figures—Vol. 9, No. 2 April 2007

Publications:

- **MPHEC**—Assessment of Acadia University's Quality Assurance Policies and Procedures
- **MPHEC**—Évaluation de la politique et des pratiques de l'Université Sainte-Anne en matière



SEASON'S GREETINGS
from
Saint Mary's University
Faculty Union
2007

Your Two Cents: Submissions and Suggestions

All SMUFU members are invited to contribute comments, news ideas and, yes, even written submissions for future issues of the Faculty Union News. Contact: Bob Cook, Editor – 420-5174 E-mail: robert.cook@smu.ca

SMUFU SCHOLARSHIP RECIPEINTS FOR 2007-2008 Announcement

The SMUFU Scholarship team consists of Rob Singer - Science, Janet Gregory - Commerce and Geraldine Thomas - Arts. The committee selected the following students to receive the SMUFU Scholarship for 2007-2008:

FULL TIME STUDENTS:

LISE D'ENTREMONT - Arts
CASSANDRA EBERHARDT - Arts
ZHEN YA GUO - Commerce
AMY HOLLAND - Science
CARRIE LEE TRIDER - Science
KATHERINE TURNER - Arts

PART TIME STUDENTS:

JEFF FARRELL - Science
MELANIE GRANT - Arts
SHAUNA SUTHERLAND - Arts
HIEN TRUONG - Commerce

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