Chapter 6

THUNDER IN THE NORTHERN SKIES

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Panelists: **Mike Ambler,** International Association of Machinists and Aerospace Workers, Calgary, AB
John Beveridge, Air Canada, Toronto, ON
Elizabeth MacPherson, Canada Industrial Relations Board, Ottawa, ON

Vincent L. Ready: I have been asked to moderate the panel. The session is "Thunder in the Northern Skies" and it is going to focus on the most recent negotiations between Air Canada and the International Association of Machinists (IAM).

We have two participants who were directly involved in the negotiations: Mike Ambler was the negotiator for the Machinists and John Beveridge is the director of labour relations for Air Canada. We also have Elizabeth MacPherson, the esteemed chair of the Canada Industrial Relations Board (CIRB), who will discuss her role on those negotiations. She is going to set the stage, she tells me, for this whole session. The order of speakers will be Liz first, Mike, and, John in that order.

Following the presentations, I will take questions from the floor. With that, go ahead, Liz.

Elizabeth MacPherson: I am going set the scene for what John and Mike lived through. It is really hard to know how far back in history you have to go, but once upon a time in this country, we had two national airlines: Air Canada and Canadian Airlines International, which we will call CAIL. When CAIL got into some financial difficulty, the federal government decided it would suspend the anti-combines legislation, which here is called the Competition Act,[1] to allow Air Canada and CAIL to talk merger. The

[1]R.S.C., 1985, c. C-3.

merger eventually took place in 2000. The merger resulted in a restructuring of the bargaining units and, to the dismay of many people, the bargaining and restructuring was not completed by our Board until 2006.

Now, in defense of the Board, a couple things were happening at that time. A new Canada Labour Code had been brought in in 1999. The Board was overwhelmed with applications from various parties—not just Air Canada and the Machinists—to deal with interpretation of the new provisions of the Code. As well, in April 2003, Air Canada went into bankruptcy protection under the Companies Creditors Arrangement Act (CCAA),[2] the equivalent of Chapter 11 in the United States. Everything was frozen. The Board was not allowed to act in any fashion whatsoever regarding Air Canada and its labour relations. So, the Board accumulated a huge backlog of cases involving Air Canada and its various unions. I guess the fact that we got the bargaining unit restructuring done by 2006 was not such an outrageous length of time in view of what was going on.

CCAA proceedings involving Air Canada lasted for a little over a year, from April 1, 2003, to September 30, 2004, and resulted in a major restructuring of Air Canada. Even though Air Canada goes by the same name, it is not really the old Air Canada. A number of companies were spun off through that proceeding and subsidiaries created. For example, Air Canada Technical Services (ACTS), the heavy maintenance repair and overhaul operations of Air Canada, was set up as a separate subsidiary and the IAM was the major certified bargaining agent for maintenance. ACTS was sold in October of 2007, and it eventually became a company called Aveos Fleet Performance Incorporated, but the employees remained employees of Air Canada and were temporarily transferred to Aveos. In January 2009, the parties agreed to a framework for the transition of Air Canada employees to Aveos.

Both Air Canada and Aveos were encountering financial difficulties by early 2009. In June of that year, the parties agreed to extend the Machinists' collective agreement for 21 months, to April 1, 2011. In June of 2010, Air Canada and Aveos applied to the Board for a "declaration of sale of business" and creation of separate bargaining units. However, in October 2010, the IAM filed an application for a declaration that Air Canada and Aveos were a single employer for labour relations purposes. The Board

[2]R.S.C. 1985, c. C-36.

heard both applications together—the one to split the bargaining units into two and the other to keep them together. Ultimately, in February of 2011, the Board decided the companies were two separate employers and created separate bargaining units, with the IAM to continue as the bargaining agent for the units at both companies. But the Board's decision caused a great deal of dissension amongst IAM bargaining unit members. It was against this backdrop that Air Canada entered into bargaining with its various unions in early 2011.

The flight attendants represented by the Canadian Union of Public Employees (CUPE) rejected two tentative collective agreements that had been reached by their bargaining committee. In October 2011, the Minister of Labour referred their dispute to the CIRB under the provisions of the Code that relate to maintaining services necessary to prevent an immediate and serious danger to public health or safety.

Before the 1999 amendments to the Code, the Federal Mediation Conciliation Service could, and did, hold parties in conciliation indefinitely. Somewhat like the National Mediation Board in the United States under the Railway Labor Act, we could hang onto the parties as long as we wanted. In 1999, however, the Code was amended to give the parties control over the conciliation process; they were the ones who decided how long conciliation would last. Under the new Code, conciliation cannot last more than 60 days without the parties' consent. Also in 1999, the government put in the above-mentioned essential services provision. The provision states that the parties are supposed to decide what services are essential to public health or safety, and how many people have to work to ensure those services are provided to the public during a legal work stoppage. If the parties do not agree on these matters, then the Minister of Labour can step in. By referring a dispute over essential services to the Board, the Minister can prevent the parties from acquiring the legal right to strike or lockout. That is what the Minister did to Air Canada and CUPE in October 2011; she referred the maintenance of activities dispute to the Board. As chair of the CIRB, I met with the parties and, ultimately, instead of making a determination on whether flight attendants provide a service that is essential to public health or safety, the parties agreed to submit their collective bargaining dispute to binding arbitration and completely avoided the Board's process.

In my view, that referral by the Minister worked the way it should have. The parties ended up with a collective agreement through a process they maintained control over.

In February 2012, the IAM reached a tentative agreement with Air Canada. but the bargaining unit members voted 65 percent to reject it. The Minister referred both the airline pilots and the IAM dispute to the Board under the Maintenance of Activities provisions on March 8, 2012. I had every expectation at the time that these disputes would roll out pretty much the way the flight attendants controversy had rolled out, namely, that I would have the parties in and some way or another, they would agree to resolve their collective bargaining dispute and the Board would never have to rule on the Maintenance of Activity issue. Unfortunately, the very next week, for reasons that still escape me, the government introduced back-to-work legislation that applied not only to the pilots, but to the IAM. The proceedings before the Board with respect to Maintenance of Activities were set aside and in fact, to this day, that issue has not been determined.

This would be a good point at which to turn it over to the people who were involved in the negotiations.

Mike Ambler: I chaired the bargaining committee for the IAM. The 2011–2012 round of negotiations was really a different sort of bargaining in the sense that, from an IAM perspective, there were ongoing debates inside the union as to whether it should be one or two units. We had the baggage handlers living under one set of rules to some extent and we had the mechanics living under a different set of rules. Because of this, there was a push—behind the scenes—to have one table for bargaining overall issues and other tables to let the two groups bargain their own issues separately. The challenge that was not anticipated was that both groups were willing to trade off different things in order to get different things—and at the same time, the company was looking for flexibility. Because of that, they ended up with very different collective agreements.

When we went into negotiations in April 2011, we did not anticipate that things like wages, or vacation, or those types of things would actually end up being bargained separately, but that is what happened. That was part of what led, we think, to the rejection of the tentative agreement. The other challenge we had, as Liz has partly addressed, was the spinoff of ACTS into Aveos and the separation of the bargaining unit. On the bargaining committee were people we knew were going to be Aveos employees as of July

14, 2011. Their interest in how this agreement would play out was completely different from the interests of people who were going to remain Air Canada employees.

We bargained for about a month-and-a-half over what we call administrative-type items that didn't have a whole lot of contentiousness to them. We stopped bargaining in the first week of June 2011, and we did not return to the table until September 2011. That circumstance was partly driven by the CAW, which was on the verge of going on strike. Also, we had this spinoff of the Aveos employees, which meant the IAM now had to come up with some new committee members to fill the vacant spots. All this created a whole unique set of challenges that certainly, for me, I had not seen or dealt with before.

When we got back in September, we did move things along and I would say that it was a fairly amicable-type negotiation. But, Air Canada certainly had an agenda and a time frame as to how they wanted all of this to play out. I do not know that the IAM really had any opposition to their time frame, per se, but Air Canada did make the decision in early December 2011 to file for conciliation. They had advised us about this in advance, so we knew it was coming.

The Honorable Justice Louise Otis was appointed the Conciliation Commissioner. After some really long days, and sometimes even longer nights, we did manage to get an agreement. I do have to say the Commissioner did a phenomenal job. She was creative; she knew when to push; she knew when to back off. There were certainly a lot of challenges within our group. Part of our group thought arbitration was the way to settle and didn't really want to bargain. That group was willing to abdicate their responsibility and say, we know if we do nothing, we will get arbitration forced on us and, therefore, it cannot be our fault. But the Commissioner was very creative and we ultimately did get a tentative agreement in February 2012.

As we were going through the ratification process, one thing quickly became apparent. I do not know whether the IAM wrapped their head around it and I do not know if Air Canada did. That "thing" was the challenge represented by social media. In an instant, you could have somebody send out a message to a thousand people that was totally false, or misleading, or a misinterpretation of what had been said. You would then need 10 people to spend the next 10 days running around trying to tell people that that was not actually the case. So, as a result, we did

get a rejection of the agreement. To be honest with you, I have no doubt in my mind the agreement that was reached originally was a fair and equitable agreement. I think that the social media had a lot to do with the rejection of the tentative agreement. I think there was pent-up frustration over not being able to bargain for a long period of time, and we saw that in the news. We did have a couple of wildcats when some people decided to take a part of the day off and that created a whole new set of challenges.

In the end, we knew that arbitration was coming and, ultimately, it did. Michel Picher was named the arbitrator. One of the things about the Protecting Air Service Act[3] was we felt it handcuffed the arbitrator. It was final selection arbitration, a sort of winner-take-all. But, it also talked about having to consider matters such as work rules, and flexibilities, and comparison to other airlines—those kinds of things. So, it limited the true nature of the arbitration—it was not just simply giving it to somebody and saying, what's fair? To some extent, it predetermined what was fair.

We met for 10 days. We negotiated for about the first five days, to a large extent on our own. Mr. Picher stopped by every day for a couple hours to make sure we were making progress. I think we did, certainly on one side of the ledger, because we quickly came to resolve and clarify some of the issues. On the other side of the ledger, there were a lot more challenges. Part of our group was never going to be tied to anything that said they agreed. That is a political challenge unions face; that is just the reality.

As we were getting towards finalizing what was going to be put forward to the arbitrator, Mr. Picher had some "blunt conversations" with some committee members, and I will suggest his was a brilliant performance that got people thinking that they needed to find some compromise and find some solutions. At the end of the day, we were certainly a whole lot closer than I think a whole lot of people would have thought. His involvement certainly allowed the process to go through arbitration without creating a whole lot of bitterness.

I think the solutions we came up with were good solutions. Although they were not all agreed-to submissions on both sides of the table, they were fairly reasonable and allowed the union—and I guess this is the upside of the scenario—to take some extreme positions in order to satisfy some of its members without fear that

[3]R.S.C. 2012, c. 2.

the company would also take extreme positions, and then having a whole lot of unhappy people.

As far as back-to-work legislation goes, I guess the question is, knowing that it is out there and knowing that it happened to one of the other groups, did it impact the bargaining? Sometimes, bargaining is about who feels they have the big stick, whether it is the company or the union. Having sat through both, I would say it is always a bit of a challenge. I would say, however, it did affect bargaining to some extent. Some of the people became more motivated; other people became less motivated to find solutions.

I guess, fundamentally from a personal standpoint, did back-to-work legislation take away a fundamental right from a whole lot of Canadians—the right to strike? I think it did. The other side of the coin is, did it prevent a nasty, long, drawn-out strike? It absolutely did. It would not have been a good scenario. That scenario certainly would have hurt Air Canada. It would have hurt the IAM. It would have hurt the IAM's members. It was certainly going to be a no-win process. It certainly was going to inconvenience a whole lot of Canadians. Whether it was right or wrong? I guess time will tell, and Canadians will decide that for themselves. But to Ms. MacPherson's point, did it have the desired effect at the end? It probably did.

John Beveridge: I am the director of labour relations for Air Canada and I was its negotiator in front of Mike. You can see that, at times, it was pretty easy for me to negotiate with Mike because he is pretty honest, pretty frank, and represents his members the best he possibly can. I just want to—I don't want to duplicate anything that's been said already—kind of give you a feel for what Air Canada was dealing with from 2003 onwards. Ms. McPherson has already said we went into a CCAA, American Chapter 11 version in Canada. In 2003 and 2004, it was concessionary bargaining on work rule changes and we had to deal with issues of unfunded pension liabilities. We really thought we had done enough at that time to re-create the corporation and to save the pension plans. Those collective agreements would run until 2009. There was a small interest arbitration in 2006 to determine whether there were to be any wage increases. So, by 2009, there had been no collective bargaining since 2003, and there was a pent-up demand on the part of the employees to make gains and to return to free collective bargaining.

In 2009, however, it became apparent we had not fixed the pension problems. We were in the midst of a global economic

downturn. The unfunded liability for pensions had increased to in excess of $2 billion. Canadian legislation says that you need to fund that over a five-year period. You do the math. A significant amount of cash was needed to be laid out for pensions alone, and we simply did not have it. In order to avoid a second bankruptcy failing, we went to the unions and we struck a deal with them for what we call the "status quo" agreement. There were no wage increases, no changes to work rules. We extended those collective agreements to 2011.

Along comes 2011, and there was significant pressure on the unions to get back what had been given up in concessionary bargaining. We had to decide that, of the four major unions we had, which one did we want to start with? We started with the pilot group, which was the reverse of what the historical pattern had been. Traditionally, pilot groups like to go last because they like to see the "lay of the land," and then add over and above that. We met with the pilot group and started bargaining in October of 2010 for approximately six months. We reached a tentative agreement. The tentative agreement was unanimously recommended by the pilot bargaining committee. It was resoundingly rejected. So, we moved on.

We went to the Canadian Auto Workers (CAW). The CAW represents the customer sales and service agents, the people who check you in at the airport. We bargained for a considerable period of time. In July of 2011, we had a three-day strike. We then reached a tentative agreement. We went back to work a couple of days later. During the strike, we managed to keep the operation running by using management people, the only group likely capable of keeping the operations running. If the pilots were to go on strike or if the IAM were to go on strike, the airline shuts down.

In the meantime, we had started negotiations with the Flight Attendant Group and Ms. McPherson has referred to their trials and tribulations. They had two failed tentative agreements, both of which had been unanimously recommended by their bargaining committees, but resoundingly rejected by their members.

This, then, is the backdrop that Mike and I were negotiating against: knowing there was this pent-up demand and that the other bargaining groups are resoundingly rejecting tentative agreements. When you sit across the table from somebody for as long as Mike and I did, I think you get to understand each other and you get a feel for that person. When Mike says that we bargained to what we believed was a fair and equitable tentative

agreement, I concur. I think everybody in that room believed we had a fair and equitable collective agreement, and that it might be the first collective agreement that would be ratified. Unfortunately that, too, was rejected for a number of reasons. Mike has spelled out some of them.

When the Minister referred the question to the Board about whether there was a danger to the health or safety of the public should there be a withdrawal of services, we had started to deal with the pilots just prior to Christmas in 2011. At the same time, the IAM strike notice arose. At that point, we said if the IAM is going to shut us down, then we might as well deal with all those various unions at that time. So, we issued a notice of lockout to the Pilot Group. The legislation was then implemented. Mike and I got together and said, look, what we have here is a tentative agreement. It is the best reflection of what the parties are capable of doing. We then started to discuss the issues thought to have caused the tentative agreement to be rejected.

Mike has referred to the 10-day process where we utilized the services of the arbitrator, who would make the final selection, to assist us as a mediator. We divided the items into two buckets. One consisted of items that were not in dispute, and the other was items that were in dispute. Through the course of the 10 days, with the assistance of the arbitrator, we managed to whittle down the disputed items to a very, very small number. Those few went before the arbitrator.

We were very comfortable, as an organization, that we had taken the appropriate strategy. We bargained a fair and equitable agreement, and the jurisprudence of replication is really what should take place in order to decide what the right outcome would be for us. The offer we—Air Canada—had put forward was by-and-large the tentative agreement with one exception: we had a new pension problem. I do not think the parties differed in what the solution was; rather, it was how to get to that solution. It was the mechanism of getting to the solution that was the matter in dispute, but we were very comfortable with that.

Did the enactment of Bill C33 really change the strategy of Air Canada, how we approach bargaining? No, I do not think it did. I think what it did, however, was give the parties finality. If you look at the Canada Labour Code, it does not turn its attention to, nor provide for, a mechanism for when a collective bargaining agreement is rejected after it has been unanimously recommended for acceptance. The Bill gave us some finality and we were comfort-

able the whole time that the replication jurisprudence would get us the right result. As Mike said, it was the right result. It was a fair and equitable agreement. I think the fear the union movement had of Bill C33 is that it was slanted heavily in favor of the corporation, that we would ultimately win, and that they were somehow handcuffed. But I think the 10-day process of negotiating over the disputed items was exactly what was needed to take place in the absence of legislation. The parties would get back together again. The parties would turn their attention to items that were in dispute, and if you were capable of reaching an agreement on them, you would. Therefore, we did. The one thing it did for us was the avoidance of a second, failed tentative agreement. And, as Mike said, it clearly averted shutting the airline down, which could have been an extremely nasty and long drawn-out affair.

Vincent L. Ready: Thanks Mike and John for your candid insight about the negotiations. We will open the floor now for questions. Are there questions for the panel?

Ann Lori: I'm just wondering about the rejection of these recommended agreements by the different groups. Was part of the reason for that because you were trying to merge the two cultures—Canadian Airlines and Air Canada? Was there one group rejecting them over another group? Also, how did seniority play into it?

John Beveridge: Well, I am not sure that culture really played into it. I suppose to a small percentage, you could probably make a case that there were different cultures. I really think it was the fact that it had been more than a decade before free collective bargaining occurred. There was pent-up frustration. I think every employee group—and this is not exclusive to the IAM—wanted to demonstrate to their employer just how unhappy they were with the processes over the last decade. This was their way of demonstrating it. I think, ultimately, and as Mike alluded to, his bargaining committee understood there needed to be an end at some point. Somebody would put an end to it, whether it was back-to-work legislation or whether it was an arbitrated decision. People knew it was coming to an end. I think it was just a demonstration of frustration on people's parts. But frustration was rife through all the unions, it was not exclusive to a single unit.

With respect to your question about seniority, no, I do not believe seniority played a question. I think it was largely an economic question. People had lost a considerable amount of money in 2003. Extrapolate that over a 10-year period, and the demands were just unreasonable at that point in time.

Mike Ambler: Certainly from the IAM perspective, seniority did not come into play. Seniority had been resolved back in 2003 or 2004 by arbitration. It certainly was a challenge at that time because the IAM had two bargaining groups. The Canadian Airline situation—their financial situation at the time—was not good. So, you had the Air Canada group saying, well it is not a merger, it is a takeover, therefore, the CAIL group belongs at the bottom. Of course, the CAIL group was saying, No, no, no, it has to be some form of merger.

We did go through an arbitration process with George Adams, who did the IAM case. At the end of the day, basic seniority is basic seniority. That's how we resolved it. We went through and tried to identify, or mirror, the history of different people above basic positions, and then slot them in accordingly. The Canadian Airlines people were coming into the Air Canada contract. The Air Canada group felt more empowered. It became a process of using a lead position. As an example, the Canadian Airlines system allowed you to be in a lead position for six months, and then say, Thanks very much, but I think I will go and do something else. But a year later, you could come back and say, Well, I am going exercise my seniority and be a lead again. The Air Canada System is that when you became a lead, you went on a different seniority list—the lead seniority list. Because the Canadian Airlines people were coming into the Air Canada system, the last time they became a lead slotted them into the seniority list. Now, if the Air Canada folks had their druthers, the Canadian Airlines folks would have been at the bottom. I represented the Air Canada Group based out of Vancouver through that arbitration and even trying to say to them, Look, that's not the way this is going to play out, made me really unpopular for a time. But the reality was that, although that was the official position the Air Canada people asked for, Mr. Adams saw that there should be a fair and equitable way to put the two groups together.

Janet O'Brien: I am just curious as to whether, absent back-to-work legislation, what would you say about a time line for final-offer selection based on the experience you've now gone through? If it was not legislated, what would you say to fellow union or management representatives in terms of using the alternative of final offer dispute resolution?

Mike Ambler: I would say that you would have to consider how far apart you are and how many issues are outstanding. If you can narrow those to a few issues you are not going to live and die

over—not that they are not important to you—but maybe not live and die over, it is not a bad way to do it. It certainly puts a whole lot of pressure on both sides to say, Okay, well, I have to modify my position because I want my position to be there at the end of the day. I think the downside is, generally speaking, if you have a good arbitrator who is very skilled at finding out what you need versus what you want, sometimes being able to split the baby is a better solution, but that opportunity is not there with final offer selection. I think that really depends on the individual group circumstance at the time.

Audience Member: So, it's not a definite no?

Mike Ambler: No. I would say it is not. I guess it is, do you feel lucky? Are you going to make a great case for your side? If you think the arbitrator is going to buy that, maybe you want to roll the dice for the whole thing, but that can be a risky proposition. You could have an arbitrator tell you that you may not be lucky, even if you've selected him. You may not want to roll the dice.

John Beveridge: I think failed ratifications put a lot of pressure on bargaining committees. Traditionally, the bargaining committees dissolve and that puts you right back to square one again. All credit to the IAM. In this case, they stood up to the task. They moved forward. I think the arbitrated settlement—and again, I'm using the principle of replication—it really did replicate what the parties had agreed to and what they were capable of achieving. I think that is the right result in the long run. Whether the membership agrees with that is another matter, but they did elect these individuals because of their prowess and expertise. I think you need to rely on what they can achieve at the end of the day. We were comfortable with that.

Michel Picher: My question is for Mike and I hope it is not telling tales out of school. We sit here and we think, well, there is Mike Ambler, he has been in battles with the big employer and that is his job. Because I was there and I saw some things, I hope you can share with this group a bit about some of the internal challenges you had with your own committee. You had a very interesting structure, as I recall, with national representation. I don't know, 20 guys on the committee?

Mike Ambler: I think we ended up with about 13 representatives who were elected to the committee—ten whom the IAM appointed and three general chairpersons who were full-time employees of the IAM to assist in chairing the negotiations. It is

not too far out of school anyway, and I do not work for the IAM anymore. That sort of frees me up a little bit, too.

Elizabeth MacPherson: Should I leave the room, Mike?

Mike Ambler: No, you are all right. The airport cargo-bargaining unit seemed to be more engaged in finding solutions. There certainly were people on that committee who really were engaged in finding the solution, but right at the very end, they became very nervous about actually signing, to say "I agree." I think there was a feeling, from the start almost, that no matter what we did, it was not going to be ratified. The other part of that group really sort of just sat back—they were the more inexperienced part of the group. Air Canada would come and say, Okay, we are prepared to do this and we are prepared to do that. They would sit there and say, that is not enough. There was no, this is what we want, you just need to go back and try again. There were no counter proposals from them. But, as we went through the process of trying to achieve the tentative agreement—and I can remember it crystal clear—there was the night when someone said the maintenance group is going to give Air Canada a counter-proposal. It was like, this is a breakthrough, this is the chance to actually get to an agreement. When it was rejected, however, there was a lot of anger and upset on that side of the table, because their agreement was significantly different. They focused on a smaller portion of the group, giving it a bunch of money versus giving the whole group a more equitable share. They got tarred and feathered when they got home because of that—to some extent, understandably so. I think when we got to the arbitration process, they were really not going to do anything and I think that was the push. I think that is where we needed some of those blunt discussions to say, Look, since you do not like what you have, then come up with ideas about what you do want. If you traded a work rule to get an extra 50 cents, the company was taking the position that we will give you back the work rule if you will give back the 50 cents. So, there was room to modify this agreement, to make it palatable for everybody. They just did not seem to have the desire to do that or they were afraid to have their names attached to it. I think by getting close—and I think we did the right thing there, Michel—enough to say, okay, no one is going to hit a grand slam here. Somebody is going to end up hitting a single. There was a large portion of the union committee that did not want to do that. That is the politics of 11 or 13 people negotiating a deal.

Elizabeth MacPherson: I have a question for the two of you. Under our Code, the parties can agree to voluntarily go to binding interest arbitration at any time. Why was it necessary for legislation to force you into arbitration? Was it ever discussed that you would voluntarily arbitrate that collective agreement after the rejection?

John Beveridge: I think the parties, Elizabeth, were very much aware of that, but the politics dictate the timing of those types of discussions. I do not think we had completely reached that point. Would the IAM actually go on strike? I guess only the IAM can answer that question. Just prior to that, there would likely have been those sorts of discussions taking place. There is significant political pressure on unions in these times and there is no doubt there was significant pressure on the IAM. Whether we could achieve that without labour disruption, I am doubtful, actually.

Mike Ambler: I would say there was probably no appetite for agreeing to binding arbitration on the IAM side. No matter how much sense that might have made, politically, that was never going to happen. Certainly from the members' standpoint, they gave up significant stuff back in 2003: 2009 was going to be their day, only to find out their pension plan was still in serious trouble and 2009 was not going to be their day. They were looking for a pound of flesh in 2011. There were comments made like, we would rather get less and get our pound of flesh. So from that standpoint, I attended a couple of union meetings in Toronto and in my area. My area seemed to have things a little better under control. In Toronto, I had never seen anger in a room like that before. They were just going to get their pound of flesh and if they lost a dollar an hour on the deal, they were prepared to do that. Part of that, too, I think, was driven by the senior executives of Air Canada having looked after themselves over the last 10 years; certainly the gentleman who took Air Canada into bankruptcy 10 years ago and walked away with $70 or $80 million, while the employees were giving up 10 and 20 percent on the paychecks. They still see that person today because of the Ace Corporation. They still see him as part of this deal. They were going to get even with him.

John Beveridge: Just for the record, I'm not senior executive.

Audience Member: The essential services legislation, does this type of language actually help you bargain a more expedited agreement with the union?

Vincent L. Ready: The question is did the back-to-work legislation and essential services hinder you in your collective bargaining?

John Beveridge: No, I do not believe it did. I think both parties would agree on the essential services. I think we recognize that the least disruption to the Canadian public that could happen would be to the benefit of both sides. I do not think that hindered us by any stretch.

Bill C33 in itself, again, allowed us to see where the goal line was. The union's concerns were, and, quite frankly I had some concerns, that people would be a bit zealous and say, here's a real opportunity for us to slate something in there that we might never have achieved under normal collective bargaining. We never took that approach because we have to live with the result. We knew how upset the employees were. We are hoping this is the last time they are upset like that. We were really hoping that the award, whether it was a union award or it was an Air Canada award, would be about a healing session for people and we could put this stuff behind us.

Mike Ambler: Well, I guess to answer that question I would say I was not privy to some of the conversations on the corporate side. Certainly, my opinion is it was a slanted bill. Did that open the door for the company to do something like that? Thank goodness saner heads prevailed. Would they have done that had there not been some sporadic work stoppages and wildcats during the process? Maybe if none of that had happened, some of those executives would have seen another opportunity. Maybe those things, although I would not encourage them, played a factor in letting executives know that now is not the time.

Andrew Mark: You mentioned the level of frustration giving rise to the problem. I am wondering whether resolving it through final offer interest arbitration impacted the level of frustration—if it in any way contributed to it or pushed it down the road? Did it still sort of heal the wounds the way that you had hoped?

Mike Ambler: I think it will give the time to allow for healing. People did see gains. People did get some of what they were due and I think that helped the situation. Certainly, when the tentative agreement was reached, there was a lot of information on Twitter, and Facebook, and all those kinds of things. I did not really grasp how powerful they could be for getting information out. Also, when you get a group of people who are going to send out misinformation, they can communicate with ten thousand people at the drop of a hat. I think some of the frustration is now going away because of the things the union told them and the things the company told them about parts of this agreement, the change in

work rules. It said we are going to do it in a different way. There is always fear of change. It is actually going to be beneficial to both sides. That is exactly how it played out. It played out that way, and so that has taken away the frustration. When we traded this to get a paid lunch back, or, when we traded that to get an extra week's vacation, the things that we traded were not bad or detrimental to the members. They just sped up the process and enhanced things for the company. I think time will heal it. I guess you should ask John in three years whether it has or not.

Vincent L. Ready: I have a question about the arbitration process itself. I have read the award and I see Michel's artful hand in how he handled it. As I read between the lines and whether it was legislated as a final offer selection, it appears to me that he took control of the dispute to this extent. Michel forced the parties to bargain and narrow the issues down. It appears to me that there was a pretty good understanding and he had done a very good job of lowering the expectations. In addition to the fact that there were people who were never going to say yes, the arbitration decision got you by. Is that a fair assessment of the arbitration process? Because it seems to me it was very artfully handled by the arbitrator himself.

John Beveridge: I would concur with that. Michel had a major influence on the final result, even though he still had to turn his attention to selecting one party's proposals over the other. He was instrumental in narrowing the gap to the point where it was almost insignificant, to be honest with you.

Michel Picher: If I can jump in at this point. The way I saw my role was not just to sit there and wait for both sides to come and give me their arguments. What I was able to do, and I think the legislation intended for that, was to say, for example, to the company, Well, you want this. I could see putting that into an award if that is your final offer. You know what? It will be a hell of a lot easier for me to accept your final offer if you really recognize that these guys lost their paid lunch and if they do not get back their paid lunch, you are going to have problems in five years. So. it was kind of head knocking in a fashion that led to what looks like final. When that decision was issued, I think John would concur, and Mike will concur, there were no surprises. Everybody in the room knew what was going to occur.

Mike Ambler: I would concur. The goal was to get as close as we could. We were never going to get to a final agreement. I can promise you that was never going to happen. I think whether

Michel would have liked to be off the hook or not, that was never going to happen. But having said that, did we get very close to what needed to get done? We did. But with the dynamics of the group on my side, that created a lot of challenges to get them to move. To put some of the blame on John's side—John cannot say these things because he still works for Air Canada—but John has a vice president who, from time to time, stopped by and, basically, inflated our guys' egos and told them how much they were worth and really all they had to do was ask for it. They could not understand why John was not giving it to them. There were certainly some challenges created by the management team that made these things more difficult. I know John probably has no comment.

Vincent L. Ready: So the good-news boy will remain anonymous. Any other questions?

Andy Simms: You alluded to the various seniority issues going back to 2003 or so. In retrospect, what would have been your preference? To have it decided earlier, decided more by the Board, less by the Board, more by arbitration, more by the parties? Even though it has probably dissipated by now, thinking back to then, would you have rather have had a board order that says you settle it in six weeks or we're going to settle it? Or, would you rather have had an order that said it will go to arbitration? Or, would you rather have dealt with it yourselves?

Mike Ambler: I have no doubt, and I felt this going back a long way, the IAM should have taken responsibility. They had members on both sides of the equation and they should have made that decision, and they should have come up with a fair and equitable decision. The only one since then where I have had any authority, is in Calgary. I represent the United Airlines Group. I helped organize the Continental Group because they became very concerned as a result of the merger. I very clearly told them, this is the way seniority is going to be done. I just spelled it out from the very beginning. I spelled it out to both sides and said, that is what it is. It is not up for debate. There are other awards out there that say it has to be fair and equitable. I certainly got some push back to say, well, yeah, but I have been a union member for 20 years and they have only been paying dues for two months. That is the way it is. The people in Calgary have a really good collective agreement. Part of that is because they piggybacked on the group in Vancouver that had been bargaining for 20 years before they were organized in Calgary.

It is a bit of a circle, but the IAM, in my opinion, should have made the decision shortly after the merger. At least a couple of million dollars of members' money was spent going through that arbitration process. It created a whole lot of bitterness and dragged it out for a couple of years. Whereas, somebody could have just said, this is the way it is going to be done. The details about how you match slightly different groups and different types of seniority, could have been resolved, I think. Ultimately, I would say the IAM should have taken responsibility and dealt with it.

Vincent L. Ready: Anything else? If not, I want to take this opportunity to thank Mike and John and Liz for their candid insight about the dispute. So, thank you.