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Job action—day by day

Friday, December 5 - BC Ferry and Marine Workers Union give 72-hour strike notice.

Sunday, December 7 - Starting at 5pm BCFMWU withdraws on-board catering and gift shop services, and 'ship movements' (sailing empty ships to refit, etc). However, full crew are still required on-board to comply with safety regulations. BCFS 'locks out' scheduled catering personnel and attempts to substitute cheaper labour from the Union's own ranks—a kind of forced self-sabotage. Union responds by announcing that 'Essential Service' levels will be implemented the following morning.

Monday, December 8 - BCFMWU scheduled crews report for 'Essential Services' 7am sailing from Swartz Bay. Once again BCFS management nominate alternative crews, arguing that since there are no catering services on vessels, senior catering staff are not required, and can be replaced with junior staff. BCFMWU continues to argue that senior staff are required because they have appropriate safety certifications and junior staff do not. Captain declares that vessel cannot sail because a complement of correctly certified crew members is not on the crew list. Disagreement delays ferry 1-1/2 hours but it eventually sails. Similar problems occur at Tsawwassen 11am and Horseshoe Bay to Nanaimo 11am ships do not sail. BCFS seeks a hearing at LRB. (For a commentary on this see Letters, page 6.)

Tuesday, December 9 - Repeat of arguments on crew makeup on Essential Service main runs. More main route sailings missed.irate ferry patrons at Horseshoe Bay block Bowen Island Ferry and are shown on TV. In the afternoon, negotiations at LRB between BCFS and Union lead to agreement on Essential Services crewing - senior catering staff

will crew the vessels but they will be paid at lower rates. Almost simultaneously, Premier Gordon Campbell announces that Labour Minister Graham Bruce will make announcement later. About one hour later, Minister Bruce announces that an 80-day 'cooling-off' period will be imposed under the 1974 *Railway and Ferries Bargaining Assistance Act* as amended November 27, 2003. BCFMWU says that if the cooling-off period is not withdrawn and return to Essential Services implemented, union will call total shutdown of all routes and facilities.

Wednesday, December 10 - Union meets with Minister Bruce but Minister will not withdraw 'cooling-off' order. Union declares complete strike as of 12noon. At 12noon, all ships make final runs to their home ports and terminals are closed. Union declares readiness to return to bargaining immediately, with no conditions, and to provide Essential Services if Minister will withdraw 'cooling off' order. Minister refuses. In the evening, LRB hearing results in an Interim Back to Work Order (which would require that full service, not essential service levels, resume). There are legal arguments to be settled in the morning. Ferries CEO Hahn says he expects to be able to crew one or two main route ferries with management on Saturday if the strike continues, Union sources doubt this.

Thursday, December 11 - LRB interim order served on the Union at 2:35am, posted on Union website in early morning. Union members show no signs of going back to work; ferries remain tied up. Lawyers go back to LRB hearings; Union and company back to bargaining table under mediator Vince Ready. Union reiterates that it will run full service December 19 to 28, and also that it will run Dangerous Cargo runs to smaller Islands so they don't run out of gasoline, propane, etc.
Now read 'The Act That Wasn't There,' below.

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The Act that wasn't there

On Tuesday, December 9, at about the same time as the Union and the company were reaching agreement over the staffing of the Essential Services vessels, Premier Gordon Campbell announced that in about an hour, Labour Minister Graham Bruce would be making an announcement. Sure enough, about an hour later, Minister Bruce called for an 80-day cooling-off period, citing as his authority the *Railway and Ferries Bargaining Assistance Act, 1974*, as amended November 27 by *Bill 95, the Railway and Ferries Bargaining Assistance Amendment Act, 2003*.

Bill 95 appears to have been carefully crafted according to instructions provided in the last issue of *Island Tides* (*Dealing With Government—Just Plain Bill*, see islandtides.com). It was set out as a series of amendments to the 1974 Act, bringing it up to date with a clear reference to BC Ferry Services Inc, which of course did not exist in 1974. Bill 95 was discussed by a legislative committee of the Whole for, according to Hansard, a total of one minute. The committee was chaired by Harold Long who owns a barge service on the Sunshine Coast. The Minister himself crowed mightily about how clever they had been in 'dusting off' this venerable piece of legislation—almost as if millions had been saved by pulling it out of the recycling bin.

Bill 95 had been introduced in the Legislature by the Minister with an absolute minimum of explanation, though we may be sure that had anyone been listening, they would have known what this ragtag collection of legal-sounding phrases was supposed to do.

80-Day Cooling-Off Period

The announcement of the 'cooling-off' period essentially removed the union's right to strike, which had already been severely, and sensibly, circumscribed by the Essential Services legislation, was followed closely by the Union's declaration that it wished to meet with Minister Bruce the following (Wednesday) morning, and that if the 'cooling-off' order was not rescinded by Wednesday noon, the Union would 'shut down the fleet'—no essential services, no nothing.

Minister Bruce (and presumably Premier Campbell) wouldn't budge, despite lengthy meetings with the Union Wednesday morning. So at noon Wednesday, the ships of the BC Ferry fleet made their last runs and headed for their home ports to tie up.

Union President Jackie Miller announced that the Union was prepared to return to the bargaining table immediately, and that in any event, the Union was prepared to operate the fleet fully from December 19 to December 28 for Christmas travel. By late Wednesday afternoon, the ships of the fleet were all snug in their berths.

The Company immediately asked for a Labour Relations Board Order to force the employees back to work, and were rewarded with a hearing that evening. Lawyers swung into action on both sides.

The problem seemed to be that it was difficult to understand the effect of the *Railway and Ferries Bargaining Assistance Amendment Act, 2003* if you weren't familiar with the *Railway and Ferries Bargaining Assistance Act, 1974*. And the latter is curiously not included in the Revised Statutes of British Columbia.

Nevertheless, late that night, the Labour Relations Board granted an interim back to work order to be effective the following (Thursday) morning. At 2:35am they found a Union official in Nanaimo to serve it on. The Union and the Company duly posted it on their websites. But the picket lines stayed up.

And the following morning the Labour Relations Board hearing reconvened, to hear 'constitutional arguments'—arguments from the Union and the Company about the status of the *RFBA Act 1974*. They were there all day.

At the same time, of course, Mediator Vince Ready was working with the bargaining teams in a marathon 16-hour session.

Late that afternoon, just before the doors closed on the court registry, lawyers for the Company rushed in with a request for the Supreme Court to hear their request for a hearing Friday morning on an Enforcement Order covering the LRB's Interim Back to Work Order. They would ask, they said, for an Order that would subject the Union to fines and possibly lead to some union members being charged with Contempt of Court.

But back at the LRB, the day's proceedings fizzled. The LRB adjudicator 'suspended judgement' on the validity of the 'dusted off' *RFBA Act*. The word was that the 1974 Act had in fact been repealed long ago, but nobody knew when. It probably couldn't be amended, and the 'cooling off' order probably had no validity either.

Mediator Vince Ready's marathon continued on into the night. At 11:30pm, the company presented a new offer, saying that it had to be accepted as a package, with no changes. 'Take it or leave it.' But the Union naturally wanted time to analyze it. After fourteen hours, Ready and the bargaining teams called it a night. Ready said that he recommended binding arbitration, and that everyone should go back to work on Friday.

Friday morning, the Union, then the Company, announced their acceptance of Vince Ready's recommendations. BCFS abandoned their efforts in the Supreme Court to have the strike declared illegal. On Friday afternoon, ferries started to move again. ✍

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