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"We No Longer Respect the Law": The Tilco Strike, Labour Injunctions, and the State

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Article abstract

In 1967 a strike of marginalized women workers in small-town Ontario became a cause célèbre for the Ontario and national labour movements due to the employers' use of an ex parte injunction to break the strike, and the trade union movement's subsequent legal challenge to that injunction. This article explores the initial Tilco strike in Peterborough, the ensuing attempts by the labour movement to support the striking local of the Textile Workers Union of America (TWUA), the criminal trials of those arrested for disobeying the injunction, and the Ontario Royal Commission on Labour Disputes which followed, chaired by Justice Ivan Rand. These events serve as a useful window through which to view labour-capital relations in this period, particularly the way in which the "Fordist" accord was profoundly gendered. Tilco also reveals a labour movement strengthened by post-World War II industrial legality, but challenged from its own margins by dissatisfaction of the rank and file with that same industrial legality. Finally, Tilco and the ensuing battle over injunctions highlights interpretive debates in Canadian working-class history concerning the state, the legal regulation of labour, and the potential malleability of state institutions in the face of pressures for reform.

"We No Longer Respect the Law": The Tilco Strike, Labour Injunctions, and the State

Joan Sangster

THE 1960S ARE OFTEN PORTRAYED in popular reconstruction as a time of student unrest and feminist uprising. It is an image which obscures persisting strains of gender conservatism and ignores other rebellious activity during this tumultuous decade, including that of young and rank-and-file workers in the trade union movement. Wildcat strikes were the most visible sign of this sixties rebellion, but there were other indications — such as the development of independent Canadian unions, the demands for public sector union rights, and the increased unionization of women — that indicated there were fissures in the so-called Fordist "accommodation" of the post-war years. Indeed, our current concerns with the loss of this Fordist accord and the decline of high-waged industrial jobs has sometimes led us to forget that Fordism was always sundered by sharp instances of class conflict. Moreover, it was a limited bargain extended primarily to white, unionized male workers. The most oppressed of the workforce — women and workers of colour — could only glance, with a certain envy, at the security, ability to consume, and protections offered to the first tier of workers in the Fordist hierarchy of workplaces and jobs.[1] These were

[1]For definitions of Fordism and its demise see Bryan Palmer, *Working-Class Experience: The Rise and Reconstitution of Canadian Labour* (Toronto 1992) and Leo Panitch and Donald Swartz, "Towards Permanent Exceptionalism: Coercion and Consent in Canadian Industrial Relations," *Labour/le Travail*, 13 (Spring 1984), 63-88. On post-Fordism, Jane Jenson, *The Challenge of Restructuring: The North American Labour Movement Responds* (Philadelphia 1993); Jane Jenson, R. Mahon and M. Bienfeld, eds., *Production, Space, Identity: Political Economy Faces the 21st Century* (Toronto 2001). For examples of women workers decidedly outside the Fordist accord see Leah Vosko, *Temporary Work The Gendered Rise of a Precarious Employment Relationship* (Toronto 2001); Dionne Brand,

Joan Sangster, "'We No Longer Respect the Law': The Tilco Strike, Labour Injunctions, and the State," *Labour/Le Travail*, 53 (Spring 2004), 47-87.

the second tier of Fordism's celebrated accord, a stratum of workers whose jobs were unorganized and insecure, whose wages were low, whose conditions were poor, and whose "rights" were limited.

The Tilco affair is the story of this second tier of women workers whose desperate struggle to unionize a factory of just less than 60 employees in a small-town Ontario city sparked a malestrom of wider labour protest, led to the state's successful criminal court cases against 26 other workers after their support picket, and eventually spawned a Royal Commission on labour disputes, itself a storm of controversy, chaired by Justice Ivan Rand, one of the initial legal architects of the Fordist compromise. This "woman's" strike, ultimately defeated by a small-town cowboy capitalist employer, provides a fascinating, intricate narrative well worth telling for its own sake. The wider battle over injunctions which emerged from the strike, including the state's royal commission, serve as a useful prism through which to view labour-capital relations in this period.

As a window into the history of organizing, the Tilco story reveals the entrenched legal and social barriers to unionization that persisted in this period, seemingly an era characterized by the large, powerful industrial union. These obstacles were often compounded by factors of region, gender, and the indifference of some internationals to local needs. Gender relations were certainly important to the story of the strike, but they were less central to the commentary of the time, and, ironically, in the pro-labour press, the strike went from being a just struggle of women against their employer to a heroic war of men sent to jail for their principles. The difficulties in organizing women's workplaces and the story of the debilitating injunction were certainly related, though this connection was not stressed at the time. Indeed, the Tilco struggle stands at the brink of new left, feminist, and student organizing that offered an analytic accent on working women's struggles as well as practical support on the picket line — evidenced only a few years later at Texpack (1971) and Fleck (1974). But Tilco predates this political upsurge, and the strike thus stands as a stark reminder of both the lingering, entrenched gender conserva-

No Burden to Carry: The Lives of Black Working Women in Ontario, 1920s-1950s (Toronto 1991); for discussion of unionized women and working-class feminism in post-World War II Canada, Pamela Sugiman, *Labour's Dilemma: The Gendered Politics of Autoworkers in Canada, 1937-79* (Toronto 1994); Julie Guard, "Fair Pay or Fair Play: Gender Relations, Class Consciousness, and Union Solidarity in the Canadian UE," *Labour/Le Travail*, 37 (Spring 1996), 149-77; Ester Reiter, "First-Class Workers Don't Want Second-Class Wages: The Lanark Strike in Dunnville," in Joy Parr, ed., *A Diversity of Women: Ontario, 1945-80* (Toronto 1995), and in the US, Dennis Deslippe, *Rights Not Roses: Unions and The Rise of Working-class Feminism* (Urbana 2000) and Dorothy Sue Cobble, "Recapturing Working-Class Feminism: Union Women in the Postwar Era," in Joanne Meyerwitz, ed., *Not June Cleaver: Women and Gender in Postwar America, 1945-60* (Philadelphia 1994), 57-83. For a discussion of lingering gender conservatism in the 1960s see Barbara Freeman, *The Satellite Sex: the Media and Women's Issues in English Canada* (Waterloo 2001).

tism of the post-World War II world, and also how precarious this was, how quickly and radically gender roles could be challenged. It indicates the structural impediments to social change as well as the way in which small resistances could become larger cracks in structures of power. Tilco also reveals a labour movement strengthened by the industrial legality which Fordism brought, but challenged from its own margins by dissatisfaction of the rank and file with that same industrial legality.

Finally, and perhaps most centrally, Tilco and the ensuing battle over injunctions takes us into interpretive debates in Canadian working-class history concerning the state, the legal regulation of labour, and the potential malleability of state institutions in the face of pressures for reform. As Judy Fudge and Eric Tucker have indicated for an earlier period, the use of injunctions offered a concrete example of how the law in liberal-capitalist societies was an essential part of the "infrastructure" by which the power of private enterprise was secured, and the "labour market was structured to the advantage of capital."[2] Law was crucial to the "reproduction and discipline"[3] of wage workers in a directly coercive, but also more subtle ideological sense. As a mode of regulation, it constituted and sustained social relations of wage work and daily life within the parameters of prevailing economic structures and political state formation, yet the law and its use — and perceived abuse — could arouse subversive questioning by those being regulated.

By the 1960s, organized labour had placed more faith in industrial legality and the rights wrested from capital and the state than it had in any previous historical period; these legal "rules of the game," sustaining an ideology of "free" collective bargaining had become part and parcel of the process of class formation. Tilco, like other upheavals in the 1960s, disrupted the prevailing faith in industrial legality for it exposed the extent to which the "free" in collective bargaining was an ideological legitimization of capitalism rather than a reality of class relations, showing how injunctions could still be used, much as in the 19th century, to buttress the raw power of employers determined to bar unions from the workplace. As a result, the labour movement of this period exhibited deeply ambivalent attitudes towards the state. The way in which the trade union movement's articulation of "right's" — including the right to civil disobedience — was used during the strike and the Royal Commission exhibited a slippery oscillation between a claim to respectability and adherence to the rule of law on the one hand, and a cynicism, on the other hand, that law

[2]Eric Tucker and Judy Fudge, "Forging Responsible Unions: Metal Workers and the Rise of the Labour Injunction in Canada," *Labour/Le Travail*, 37 (Spring 1996), 87. I have slightly altered the wording.

[3]Frances Snyder and Douglas Hay, "Introduction" to their edited *Labour, Law and Crime: an Historical Perspective* (London 1987), 2. See also Eric Tucker, "Labour Law and Fragmentation," in Deiter Buse and Mercedes Steedman, eds., *Hard Lessons: The Mine Mill Union in the Canadian Labour Movement* (Toronto 1995).

was, as United Auto Workers (UAW) leader George Burt put it, simply "an instrument of the establishment."[4]

From Striking Women to Heroic Men: The Tilco Strike Narrative

What eventually became the *cause celèbre* of the Ontario labour movement for two years ostensibly began over a $25 signing bonus for about 35 women employed at Tilco Plastics, a small manufacturing firm making injection moulded plastic notions such as combs and barrettes. Originally owned by a United States firm, Tilton and Cook, Tilco was purchased in 1962 by three of its Peterborough managers after the death of its incumbent American president, "Pop" (Robert) Curtain — the familial monikker supposedly given to him affectionately by women workers, reflecting the enduring presence of paternalism in more than one Peterborough manufacturing firm.[5] The new owners, Donald Harwood, Donald Tripp, and Harold Pammett inherited a production facility that drew primarily on the labour of "unskilled" hourly-waged women, while a very small number of male toolmakers and supervisors benefitted from a profit sharing plan. Although the number of production workers shifted over the mid 1960s, there were, of 60 employees at the time of the strike, 35 women production workers.

These workers reflected the racially homogeneous workforce in the city; all the women were white, representing the dominant Anglo-Celtic/European population characteristic of the area. Most were single and young, from 16 to their early 20s, but about 6 to 8 were over 40, including one grandmother of 57, while the leader of the strike committee, Lil Downer, was in her 30s with two children. Tilco workers thus reflected broader Canadian and Ontario labour force trends which saw an influx of women into paid work in the 1960s, with a persisting gap between young, single women and older women returning to wage labour after having children. The labour force was being slowly transformed by an increasing number of women, especially married women working for wages. Over the course of the 1960s the percentage of the latter group increased from 19 to 32 per cent of the labour force; by the mid-1970s, almost half of all married women in Peterborough worked outside the home. Although many of these women flooded into service and clerical jobs, at least 17 per cent were found in manufacturing (a slightly higher 25 per cent in Peterborough) and significantly, over one third of these women worked in smaller industries, employing less than 100 employees. One consequence was the low rate of women's unionization: in the mid-1960s, only 17 per cent of union

[4]Quoted in A.W.R. Carrothers, *Report of a Study on the Labour Injunction in Ontario* (Toronto 1966), vol. 2, 28 June 1966. The second volume of Carrothers study included a detailed account, with quotes, of press reporting on strikes in this period. (Hereafter Carrothers, vol. 2)

[5]Joan Sangster, "The Softball Solution: Women Workers and Male Managers in a Peterborough Clock Factory," *Labour/Le Travail*, 32 (Fall 1993), 167-99.

members were women.[6] Like these women, those at Tilco reflected the persisting segregation of women in manufacturing into sex-typed, low-paid work, with few benefits and minimal job security.

Perceived to be unskilled, Tilco women's wages were particularly low: a mere one dollar and twelve cents an hour, the rate was barely over the minimum wage of one dollar an hour. This represented, at best, 60 per cent of an average male industrial wage. Even in comparison to other women in unionized manufacturing work, such as those covered by the powerful United Electrical Radio and Machine Workers Union (UE) collective agreement at Peterborough's General Electric, who could make as much as two dollars an hour, Tilco women were paid low wages. As one Peterborough trade union leader later told Justice Ivan Rand, the wage differential between General Electric and Tilco had no basis in the work done. The kind of machine work women did, and the skill level required, varied very little between the two establishments – in fact the Tilco machines might be more "complicated" – the wage gulf was simply the result of a union agreement.[7]

Not surprisingly, then, women at Tilco turned to a union to help them organize in the summer of 1965. It was not the first attempt. In 1951, the UE had successfully signed the workers into a composite local, but by 1954, after three years with no contract, and workers too intimidated to form a negotiating committee as union members were routinely fired, the union became *de facto* defunct. In the summer of 1965, an organizer for the Textile Workers Union of America (TWUA), tipped off by workers at the nearby Brinton Carpet factory, approached some Tilco women. Along with Tilco worker Downer, a TWUA organizer visited employees in their homes and signed up the majority, with certification secured for 52 employees in July. The UE, which officially still held the certification rights, gave its blessing and did not contest the certification. While low wages were clearly a major reason women signed up so quickly, there were indications that job insecurity and shop floor tensions were also factors. To a later interviewer, workers described an overbearing management, primarily Harold "Dutch" Pammett, who kept strict control by punishing any dissenters decisively with a layoff notice.[8]

The TWUA ostensibly had the know how to deal with a small workplace like Tilco. As its leaders later told Justice Rand, the union had a long history of dealing with managements hostile to unions, with "scattered workplaces engaged in highly

[6]Canada, Department of Labour [Women's Bureau] *Women in the Labour Force*, (Ottawa 1971), iii; Margaret Hobbs, *Project Aware: Working Trends, Women in Peterborough*, (Peterborough Women's Committee 1982); Julie White, *Sisters and Solidarity: Women and Unions in Canada* (Toronto 1993), 56.

[7]Ontario. *Royal Commission on Labour Disputes*, Verbatim Testimony (1967), Testimony of Bill Woodbeck (UE), 1853-4. [Hereafter RCLD].

[8]Nicola Martin, "Do They Pay the Minimum Wage Yet?," Trent University honours paper, Canadian Studies 475, (1982), 9. Since most of the original participants could not be located, I have relied on interviews done by two other people.

competitive businesses often trying to secure their profit margin with low wages."[9] The union also had a high female membership of about 60 per cent, though its organizers and officers were overwhelmingly male. An international with headquarters in the US, the Canadian TWUA was a relatively recent newcomer to the Canadian scene. A Congress of Industrial Organizations-based union, the TWUA began organizing in Canada in 1945, and was used as a political counterweight to the established United Textile Workers of America, led by successful Canadian organizers Madeleine Parent and Kent Rowley. Indeed, judging by the TWUA's early leaders, its attempts to move into United Textile Workers' territory (and later to take over locals of the all-Canadian CTCU), and the anti-communist rhetoric used against Rowley and Parent, the TWUA was originally *intended* as a political alternative to left-wing, militant unionism.[10] By the mid-1960s, however, the Tilco affair offered the TWUA a chance to establish itself as a union concerned with its membership — at least that was the impression. Once the strike escalated into a struggle against injunctions, Canadian leaders told their American counterparts that they had "built an excellent reputation in Canada due to the Tilco strike and the fight against injunctions. The provincial government established a royal commission and our union takes major credit for bringing this question to the public."[11]

There is no doubt that the TWUA organizer on the spot was dedicated to the women's cause. Vic Skurjat, a Polish immigrant who had reportedly active in the anti-Nazi underground (a good training ground for dealing with some employers noted one labour reporter sardonically)[12] was dispatched by the Toronto Board of the TWUA, headed by Charles "Bud" Clarke, to oversee the bargaining. According to Skurjat, it was a difficult process from the beginning because Pammett, who han-

[9]National Archives of Canada (NAC), Amalgamated Clothing Workers of America (hereafter TWUA Papers), MG28 219, vol.8, "Tilco Plastics Strike," TWUA Brief to RCLD, 2.

[10]Rick Salutin, *Kent Rowley: The Organizer, A Canadian Union Life* (Toronto 1980), 71-82. When Parent and Rowley still led the UTWA in the late 1940s, the TWUA imported the resolutely anti-communist American trade unionist, Sam Baron, into Canada to lead competitive union drives. Baron was later ousted amidst sordid internal struggles within the TWUA (*Globe and Mail*, 3 December 1952). When the TWUA later attempted to sign up members of the Canadian-based CTCU, led by Parent and Rowley, it tried to tarnish the Canadian union with a communist brush. The CTCU, on the other hand, dismissed the TWUA as a "company union." Certainly, in one instance during the 1971 Texpack strike, the TWUA seemed to secure the employee list from the company. Although less militant and more accommodationist, the TWUA did not always act as a true company union. In Peterborough, it is interesting that the UE (often later sympathetic to the CTCU) was happy to hand over the Tilco local to the TWUA, indicating that in some cases, older political animosities had been calmed.

[11]NAC, TWUA Papers, vol 8, Correspondence, G.Watson to W. Pollock, 13 September 1966.

[12]NAC, TWUA Papers, vol. 16, file Royal Commission on Industrial Disputes Clippings, *Globe and Mail*, nd.

dled all the labour relations, responded by firing some union members. Although charges were filed with the Ontario Labour Relations Board, the TWUA dropped the issue, claiming it was happy to settle out of court in order to demonstrate an ability to compromise, and most of all, secure a contract.

When negotiations broke down, a conciliator was appointed by the province in September, and at a crucial meeting in Toronto, 12 November, the union thought it made headway. A key point of dispute was the composition of the bargaining unit: Pammett wanted a strong "escape clause" for employees to opt out of the union and he did not want the toolmakers in the unit, while the TWUA, knowing this powerful group of male workers could make or break a strike, did. Pammett's lawyer later claimed publicly that he had agreed to include the toolmakers, but not a signing bonus, while the union and its lawyer claimed he had made a commitment to a $25 signing bonus. The union was clearly ready to settle for small monetary increases (14c-5c-5c over three years) in order to secure some measure of union security. Indeed, TWUA officials, thinking they had an agreement, took an offer to a ratification meeting, only to hear Pammett claim the $25 bonus was a lie. He said he would offer only fifteen dollars, though later even that sum was rescinded as well. By 26 November, the conciliation officer had issued a "no board" report, indicating that no further progress was expected, the Minister would not appoint a Conciliation Board, and on 14 December, a legal strike began, despite Pammett's last minute attempt to have it declared illegal.[13]

Why would a new, insecure union go on strike over a $25 signing bonus? Or to put the question another way, why did a mere $600 prevent the company from signing a deal? Even accounting for mistaken tactics on the union's part, its decision to strike was not the irrational action Tilco claimed, for employees had witnessed Pammett's adamant claim that he would run his company without a union, and their experience throughout bargaining indicated he would make an offer, only to withdraw it as a deliberate attempt to prevent a settlement. As one older employee, previously a textile worker at the Bonnerworth mill noted, "at least twice we thought we had an agreement but both times the offer was changed by management at the last minute.... Is Tilco simply refusing to sign the terms of a collective agreement? Is the Company trying to break the union we freely joined.... Because if the latter is the case, our struggle becomes a matter of greater significance for all workers ... if one employer can be successful in denying us our rights, then who is to say what company may try the same thing next?"[14]

What became the most contentious issue, however, was not the signing bonus or even the wage offer, but Pammett's skillful use of an injunction to re-open the plant. Picketing began 14 December and was, within a day, characterized by tension and frustration, as some strikebreakers were already crossing the line. Two

[13]NAC, TWUA Papers, vol. 78, Tilco file, letter from Harold Pammett's lawyer, Richard Sherriff to Vic Skurjat, TWUA, 14 December 1965.

[14]*Peterborough Examiner*, (hereafter *PE*), 30 December 1965.

pickets filed charges against a manager when his car drove through the pickets, striking and bruising them. While many walked the line peacefully with signs reading "All we want for Xmas is a contract," by the 16 December, pickets shouted insults at scabs, reminding them that it was "their money, their blood" they were taking.[15] Some pickets followed Pammett to his local bowling alley trying to harangue him into talking, and, in response, Pammett, never one to hide his feelings from reporters, shouted that "we are going to run this business our way, not the union way. If we don't run it, we'll liquidate it."[16]

Pammett called the police to escort his car into the plant grounds, yet these provocations were largely for a public relations show. The only visible public violence appeared to be against the strikers. Indeed, it was Pammett who was subsequently fined and bound over by a local Magistrate for threatening Skurjat with his car: "if you get in front of my car," he had thundered, "I'll run you down until you are dead. You'll never get home to your wife and family again."[17] All this mattered little to the Judge who granted the initial injunction. On Friday 17 December, Pammett drove to Toronto, and with his lawyer Richard Sherriff secured an *ex-parte* injunction from Judge Haines, enjoining all picketing. Pammett's affidavit, supported only by statements from Tilco managers, offered as evidence only the most minor of incidents, such as pickets "blocking the driveway ... standing on company property ... peering in factory windows ... and beating the top of car hoods." The only claim of physical injury was from a manager whose foot was supposedly "kicked by a picketer." Pammett also claimed that pickets had broken windows, but what he really seemed to object to was their potential to dissuade scabs from working; the former, he declared, were "running roughshod over the rights of those who sought freely to work."[18] The *ex-parte* interim injunction, a temporary order for four days, required no respondents in court and no cross examination of the affidavit. Pammett and other managers quickly telephoned friends and family (and later sought out the unemployed) in order to fill positions. "Peterborough was not that big a place," lamented a TWUA leader, and the managers had "relatives and relatives and relatives."[19] The strikers could only watch from across the street (where striker Lil Downer lived) in despair, as managers and some toolmakers drove replacements in. The plant resumed operations, and as Pammett himself announced triumphantly, "if it was not for the injunction [the union] would have flattened him, but because of the court order, he could ride it out and he would have [the union] decertified."[20]

[15]*PE*, 14-15 December1965.
[16]*PE*, 16 December1965.
[17]*PE*, 27 January1966.
[18]Pammett added the unprovable claim that "he had received telephone threats." *PE*, 17-18 December 1965; RCLD, testimony, 1781-4.
[19]RCLD, testimony, 2395.
[20]NAC, TWUA Papers, vol. 8, TWUA brief to RCLR; see also later testimony before OLRB, Carrothers, vol. 2, 10 June 1966 and *Globe and Mail*, 13 June 1966.

The labour movement disliked injunctions intensely, but hated *ex-parte* injunctions, given with no notice to the union, with a particular passion. Injunctions were not part of the legal machinery of labour relations, but were granted under the provincial Judicature Act, overseeing the operation of the courts and the judiciary.[21] As Judy Fudge and Eric Tucker show, from the late 19th century on, injunctions were used as a key ingredient of employers' strategies to defeat strikes and destabilize unions. *Ex-parte* injunctions, the labour movement argued, were especially odious and intrinsically unfair because, even ignoring the context of employer-employee inequality which characterized labour disputes, there was no notice to the defendant, no chance to rebut evidence and present another point of view. Union objections to *ex partes* had been recently relayed to the Ontario government by the Ontario Federation of Labour (OFL), and in fact, a 1958 all-party legislative committee had recommended abolishing them.[22] Reflecting on the Tilco affair, some trade unionists implied that the labour movement was just itching for a chance to challenge injunction law.[23]

Nor was Ontario the only jurisdiction in which injunctions were a cause of controversy. As a result of labour strife in British Columbia, law professor A.W. Carrothers was commissioned by the government to do a study in which he advocated abolishing *ex partes*. In a brief for the labour movement, Thomas Berger claimed that injunctions were increasing at an alarming rate and he criticized *ex partes* in particular, arguing they actually created greater possibilities of "mischief," ill will, and violence. He could have been describing the Tilco case when he noted that "the first few days in a labour dispute are usually critical ... and if an employer obtains an *ex parte*.... He has got what he wants and he never goes any further

[21]Injunction relief had historically been part of common law tradition, usually providing temporary or "interim" relief to protect property. In theory it "contemplated an eventual trial," though in actual fact, this almost never occurred. Horace Krever, *The Labour Injunction in Ontario: Procedures and Practice* (vol. 1 of Carrothers Study), 8, 15. The plaintiff had to produce affidavits for either an *ex parte* interim injunction (without notice to the defendants) or an interim injunction with notice to the defendants. Both of these had to be for a specific time, the latter to give the other party an opportunity to reply. An interloculatory injunction referred to any injunction made before the final disposition of a case, usually restraining the defendant in some way until trial or some other disposition of the case. After changes to section 17 of the Judicature Act in 1960 an interim injunction was limited to four days, but the crown still had the discretion to continue the injunction until trial or other disposition. Interloculatory injunctions — once the union had agreed to them — could not be appealed.

[22]Although the committee did allow that there should be no *ex partes* "except in the case of emergency." Krever, *The Labour Injunction*, 11.

[23]Peterborough Labour Council Collection (PLC), Bill Woodbeck interview with Janice Barry, 3 June 2000.

— without a trial and without having to prove his case."[24] Despite this tradition of progressive legal reformers speaking out against the use of injunctions, urging Canadian jurisdictions to imitate the 1932 US Norris-LaGuardia Act (which limited injunctions almost to non-existence in the federal realm), they continued to be used as a means of buttressing employer power in labour disputes.

As the Tilco controversy unfolded, the labour movement made clear its hostile view of injunctions. They were primarily used to ensure the use of strike breakers, trade unionists argued, not to control violence and prevent vandalism as most employers claimed. Labour advocates quoted legal arguments and experts; their most important ally was (then) Ontario Justice Bora Laskin, whose seminal 1937 article criticizing injunctions was cited repeatedly. Laskin outlined nine of the key arguments against the use of injunctions in labour conflicts, ranging from the fact that they were often "granted on affidavit evidence with no cross examination" to the fact that "they endowed the employer with a militant power, little short of sovereignty," placed the judiciary in "the ranks of employers," and "aroused an antagonism that often leads to violence."[25] Direct experience of even one strike in which an injunction had been used also shaped labour's opposition. Employers, trade unionists claimed, knew which lawyers and judges to go to secure last minute injunctions and once an *ex-parte* was in place, a subsequent judge was unlikely to overturn the original order. In the meantime, a "strike went down the drain."[26]

Those were Skurjat's exact words to describe the Tilco case. On 21 December, Skurjat and the union scrambled to find a lawyer to represent them in court at the Toronto hearing before Judge King to see if the *ex parte* injunction would be continued. Pressed by their new, only recently recruited lawyer to "take a deal,"[27] the union agreed to a maximum of twelve pickets as the lesser of two evils. The lawyer warned Skurjat that the other option might be no pickets at all. This decision came back to haunt the Tilco strikers, as subsequently Rand and others hammered home the argument that they had *agreed* to twelve pickets. It was as if they were guiltily admitting that their members *were* creating a violent picket line. And in what was later a cruel irony, Rand would claim outright that the injunction had not killed the strike, rather Pammett's strong opposition to the union had, even though the Ontario Labour Relations Board (OLRB) refused to acknowledge that Pammett's

[24]NAC, Canadian Labour Congress Papers (hereafter CLC Papers), MG28, I 103, vol. 391, file T6 Injunctions, Thomas Berger, "The Use of Labour Injunctions in Labour Disputes," British Columbia Federation of Labour Injunction Conference, 7 January 1967.

[25]Bora Laskin, "Labour Injunctions in Canada: A Caveat," *Canadian Bar Review*, 1937, 272-4. His arguments were directly reprinted by unions including in the TWUA Brief and OFL brief to RCLD.

[26]RCLD, testimony, 2375.

[27]RCLD, testimony, 2376. Skurjat's testimony provides an excellent concrete example of what actually happened with many injunctions as unions were pressed to find a quick fix legal solution. The Tilco deal, he later admitted was "a bad deal," RCLD, testimony, 2377.

adamant, if not hysterical, opposition to the union constituted bargaining in bad faith.[28]

What was clear from this initial TWUA decision was that the climate of industrial legality and unions' increasingly heavy reliance on lawyers meant that unions were counseled on the "safest" legal option, not the most strategically militant one. As Skurjat later admitted, this led to a rather "cynical view of the legal profession in labour circles."[29] It is also true that some unions did not have the resources for the long court battles necessary to oppose an injunction. Skurjat later explained to the Royal Commission that the TWUA literally believed that they *had* two options, twelve or no pickets at all, even though Rand and his legal counsel insisted that the letter of the law allowed them to oppose the injunction. Union organizers, however, comprehended both the inclination of the courts to continue injunctions as well as the immense ideological power of the courts in the minds of ordinary people, making opposition to injunctions difficult. As TWUA leaders tried to explain to Rand, once Pammett had the first injunction he phoned replacement workers telling them "he had a court order" to open the plant. As a result, they thought the strike was an illegal one: the very word injunction "made people think the union had done something wrong ... they think the injunction nullifies the union."[30] It was a misconception that organizations like the Canadian Manufacturers Association were happy to leave unchallenged for they too implied that an injunction was evidence of illegal union activity, not a preemptive or preventative order.[31]

A mere twelve pickets at Tilco meant that strikebreakers continued to staff the small plant with little opposition, even though some changed their minds after passing through the picket line, and despite efforts made by UE activist Ray Peters, head of the local unemployed workers organization, to dissuade the unemployed from taking jobs at Tilco. After the second injunction, Harold Pammett still yelled at Lil Downer, complaining about turnover of scabs: "I have the lousiest bunch of workers ... because you don't let them stay long enough to get experience."[32] However, with some supervisory staff to work the machines and unskilled women recruited through unemployment lines (as well as the nephews and old girlfriends called on by Tripp and Pammett), it was relatively easy to break the back of the strike, though no one at the time thought the battle was over. Strikers and the TWUA continued to organize support, the local labour movement became more involved, and local politicians tried to intervene, along with the Ontario government, to effect a settle-

[28]Ontario Labour Relations Board, Between TWUA and Tilco Plastics, 23 September 1966. The OLRB refused to grant consent to the union to institute a prosecution for failing to bargain in good faith in contravention of the Labour Relations Act. See note 69 for details.
[29]RCLD, testimony, 2378.
[30]RCLD, testimony, 2396.
[31]Archives of Ontario (AO), Dept. of Labour Papers, (hereafter DL), RG7-1-0-1220, f 38, *Industry* (published by the CMA) August 1966.
[32]RCLD, testimony, 2397.

Rally, 10 February 1966. Photo courtesy of York University Archives, *Toronto Telegram Photograph collection, ASC Neg. Number 1858.*

ment. By February at least four efforts had been made to bring the sides together, one initiated by the leader of the Peterborough Ministerial Association, an Anglican minister in the social gospel tradition, one by labour council representatives, one by the local MPP, a Tory, supported by the federal MP, a Liberal, and one by the Mayor. Nor could the provincial Minister of Labour manage to bring the sides together. Pammett rebuffed all these efforts, claiming that until picket line "violence" stopped, he was not interested, even though the initial court actions for violence were leveled against his managers not workers. Indicating his disinterest in settling, Pammett announced that "the whole contract will have to be negotiated again ... he would not honour any previous obligations."[33] By February, when the Minister of Labour was asked in the Legislature by the NDP if it appeared that Tilco was not bargaining in good faith, he made the honest slip of admitting in public that "it certainly has the appearance of it."[34]

[33]*PE*, 12 January 1966.
[34]*PE*, 25 February1966.

Local trade unionists, especially from the United Steel Workers (USW) and the UE, the latter still estranged from the Canadian Labour Congress (CLC)-based Peterborough labour council, joined the picket line together; indeed, their cooperation enhanced an emerging thaw in what had been a debilitating Cold War waged by social democratic unions in the city since 1949.[35] On 10 February, a rally of about 300 supporters was held, with the strikers praised and feted by speakers including OFL president David Archer, who concentrated on the injunction issue. "Laws must be obeyed," he said, "but bad laws changed" and he hinted that "mass picketing" might have to be used in the Tilco case as it had been in a recent successful Oshawa strike of newspaper workers, where an injunction was effectively countered by massive numbers of support pickets. The Tilco strikers, while cognizant of the injunction issue, did not forget that they wanted their jobs back: "we will stay on the picket line till hell freezes over," announced Lil Downer, "when we come to a meeting like this we realize that we too, like those of you from big unions, have a right to form a union."[36]

Pressures on the women were considerable, not only because it was a winter strike, but because strike pay yielded only fourteen dollars a week. Some women interviewed later noted that, even though they lived at home, once they paid board of ten dollars which their families needed, there was little left. The women who were supporting dependents, such as one mother of two, were even more desperate, for their seventeen dollars strike pay (plus three dollars for each dependent) did not go far.[37] Yet, it is revealing that both mainstream and union publications tended to stress the "girl" strikers not the "breadwinning" ones. The labour movement – represented largely by men — saw itself as militantly and chivalrously committed to the strike, criticizing the company's callous exploitation of female labour, but the dominant image of workers as young and single "girls" was still powerfully shaped by a male breadwinner ideal.

The age and gender of the picketers did not inhibit picket line skirmishes. More than one case made it to the local court, the proverbial ground for mediation of small disputes. Pammett himself was bound over to "keep the peace" after he

[35]In 1949, the UE was expelled from the CLC on a technicality, in what was essentially an "anti-communist" purge. They were not re-admitted until 1972. Peterborough unionists claim that the Tilco struggle helped to convince some CLC unions of the need to re-admit the UE to both the local and national labour bodies. The thaw had already been noted in 1960 when both sides worked (successfully) on the campaign to elect Walter Pitman as a federal New Party candidate.

[36]*PE*, 11 February1966.

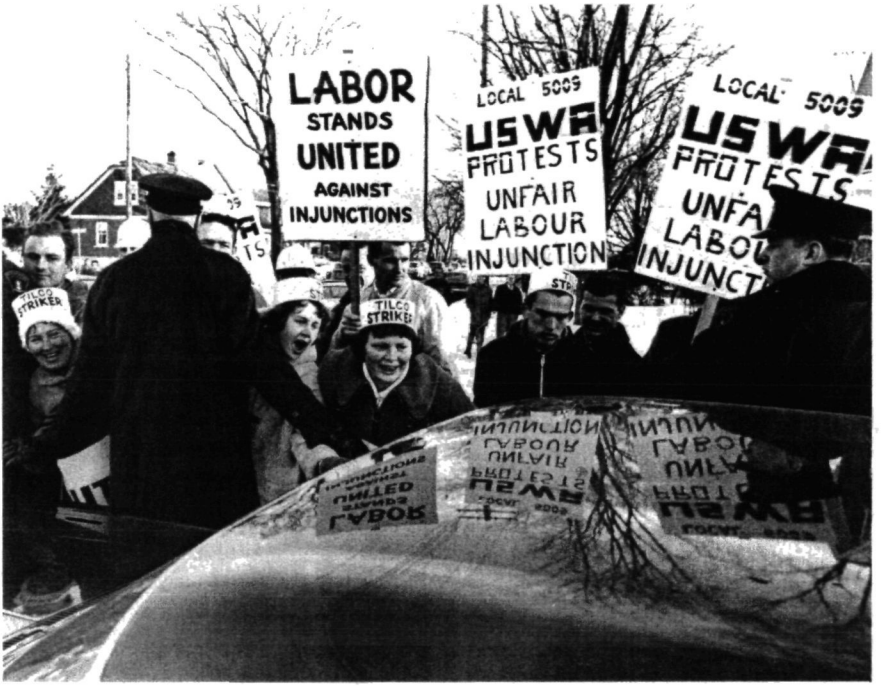
[37]A list of strikers still left in June 1966 indicated that 8 of 21 were getting the dependent strike pay of 17 dollars. This is almost 30 per cent of the strikers, higher than one would gather from the publicity stressing the predominance of young, single women – but this was after months on strike and some women may have found other work. AO, DL. RG7-145-0-7, Container 1, "Tilco Strike."

threatened to run Skurjat down, while Donald Tripp was charged with assault and fined ten dollars when he grabbed a sixteen-year-old male picketer by the throat and threatened him both physically and verbally.[38] Workers also tangled on the line. Margaret Tellier, a strikebreaker who went in every day with her teenage son, was convicted of assault when she responded to some verbal taunts ("Momma and Baby Tellier," as they were called) by throwing her fist into the picketer's face. Tellier's claim of provocation was dismissed by the striker's lawyer who challenged the Judge, in the tradition of Magistrate's Court, to assess the deportment of the honorable worker before him: "look at her demeanour in the witness box, your honour, she is not the type who would spit in anyone's face."[39] It was a characterization between the "rough and the respectable" that striker Bev Downer also endorsed: "many of [the strikebreakers]," she claimed, were a "rough gang ... a lower class of people who didn't care about taking other peoples' jobs."[40]

By May, both scabs and picketers were being charged for physical skirmishes on the line. When the Company lawyer demanded jail time for one striker after her second offence, local Judge Philp refused, dismissing these "fights between girls," a designation that press reports often supported with their descriptions of "hair pulling" and name calling.[41] By May, of course, the women were becoming despondent as the strike faltered: "it's a shame," the Peterborough Labour Council executive noted trying to defend the feminine honour of the strikers, that these women "have to have their names splashed across the front page of the paper to draw attention to the strike ... women and girls in these scuffles are not proud of their part but neither will they be pushed around in defiance of their right to picket."[42]

Indeed, even earlier, the sense of increased frustration, along with a recent union victory in Oshawa, led to tactics of civil disobedience. Oshawa printers employed by the Thompson newspaper had an injunction slapped on their picket line in late January 1966; in response, the powerful labour movement in the town flocked to the picket line, disobeying the injunction, helping to bring the strike to a quick end. Mass picketing, it appeared, "worked." As Archer indicated at the earlier Peterborough rally, labour felt it might have a weapon to counter what it considered unfair injunctions. Moreover, mass picketing had historically played a part in key UE strikes in Peterborough, and the tactic commanded strong support from

[38] *PE*, 10 March 1966.
[39] *PE*, 3 March 1966.
[40] Interview of Nicola Martin with Bev Downer, quoted in "Do They Pay the Minimum Wage Yet?" 13. For an earlier discussion of the "rough" and "respectable" in Peterborough, see Joan Sangster, *Earning Respect: The Lives of Working Women in Small-town Ontario, 1920-60* (Toronto 1995), chap. 5.
[41] *PE*, 26 May 1966.
[42] *PE*, 11 May 1966.



Demonstrations, 23 and 24 February 1966. Photo Courtesy of York University Archives, *Toronto Telegram Photograph collection, ASC Neg. Number 1857.*

more militant unionists who perceived it to be the only way to effect a meaningful picket line.[43]

The Peterborough Labour Council (PLC) and the UE, deeply committed to the strike, had already organized a special injunctions committee, led by British immigrant and trade unionist Stanley Rouse. Some unionists (with the notable exception of the rather placid UE at Westclox) tried to persuade their own management to withdraw contracts from Tilco; others began preparing leaflets, joined the picket line, and spoke elsewhere in the province to drum up support. Drawing on both the UE and CLC-based unions, this committee organized a mass demonstration across from Tilco on 23 February and 24 February, at which they were joined by TWUA leaders. For 2 days, about 200-300 demonstrators marched near the plant, carrying signs such as "Bad Laws must be Changed," "Protest Unfair Labour Injunctions," as well as issuing leaflets decrying injunctions. Twenty police were on hand to con-

[43]PLC, Interview of Janice Barry with Ray Peters, 29 June 2000. The latter is clear from later testimony before the Rand Commission.

trol the crowd but little control was needed despite a few snowballs coming from Tilco's loading dock. Indeed, one policeman muttered that it was Pammett who, along with the company lawyer, Richard Potter, was provoking the demonstrators, filming them from the roof of his building. The demonstrators, almost entirely local male trade unionists, were well aware that they might be charged, despite their claim that they were demonstrating not picketing. "Let them charge us," one shouted at Pammett as he filmed them. When the well-known local sheriff got up to read the injunction preventing more than twelve pickets as well as "any person acting under them or any person having notice of this order," the unionists good naturedly shouted "louder Stan, we can't hear you, louder."[44]

On 24 February, the Attorney General admitted to the Legislature that there had been no violence, just a peaceful assembly, while the Labour Minister pledged to try and draw the two sides together, though it was clear to all in Peterborough that "chances were slim for Tilco Peace" because Pammett reiterated his pledge not to "be pushed to the bargaining table."[45] Yet on 25 February, Attorney General Wishart announced that he would charge 26 of the demonstrators, crafting a legal method which prevented trial by jury. This was the "first time his own office had ever pressed a contempt action itself," he admitted, "but it was done in the public interest."[46] The language of the public interest, however, masked other pressures on the government from the private sector. What had happened in Oshawa would be tolerated no more. It is clear that influence was being brought to bear on the government publicly by the Ontario branch of the Canadian Bar Association, which urged that the injunction law be enforced, and perhaps more important, privately by employers angry about labour militancy, rank and file rebellions, and what they claimed was excessive power by trade unions in society. Police did a sweep of Peterborough residences, picking up the Tilco 26, in a manner, indignantly claimed the wife of Bill Mulders, head of the Peterborough Labour Council, that reminded her of the Nazis in their home country, Holland, during the occupation. They were soon bailed out by the OFL, and the men and their lawyers now prepared for what was clearly a political trial.

From the Picket Line to the Courtroom

A few unionists felt that direct action should continue, but the PLC's Labour Injunctions Committee, probably daunted by the thought of long court battles, voted to abandon the demonstrations, claiming that they had made a statement, and had "carried the ball on from Oshawa as far as we could."[47] Sixty demonstrators still gathered the next morning, but followed orders to end the protest, even while grumbling that the order to desist was a "victory for Tilco management." More than one

[44]*PE*, 24 February 1966.
[45]*PE*, 26 February 1966.
[46]*PE*, 25 February 1966.
[47]*PE*, 25 February 1966

Pickets. Photo courtesy of York University Archives, *Toronto Telegram Photograph collection, ASC Neg. Number 1859.*

UAW local offered mass reinforcements: "What we need here," stated one of the remaining demonstrators "is 10,000 guys from Oshawa." "Why rely on Oshawa," another noted, "here in Peterborough we are too damn timid and afraid to go out there ourselves."[48] Legal arguments, not picket line tactics, however, now came to dominate. As the focus shifted decisively from the picket line to the courts, two defence teams were created: the OFL hired former CCF leader Ed Jolliffe to look after most of the Tilco 26, while the TWUA hired (later Attorney General) Ian Scott to defend TWUA leaders, Skurjat and Clarke. Despite some initial worries of UE national leaders about Jolliffe's lack of sympathy for UE members, the arrested men agreed to a joint defence.[49]

Labour now faced a difficult choice. Should one admit to civil disobedience, laying claim to the heroic stance of law breaking in order to oppose injustice? Or should one try to argue on the basis of legal semantics, distinguishing between "demonstrating" and picketing, or perhaps arguing that the state did not have enough evidence to make its case? The lawyers veered towards the latter course, though not entirely abandoning their political fight against injunctions. Undoubtedly, they pinned their hopes on a victory that would provide a precedent to counter the power of future injunctions because Jolliffe's main defence before Supreme Court Justice George Gale was that the men were parading and demonstrating, not picketing or even preventing people from entering the plant, and that there was nothing illegal about such a demonstration.[50] Like Scott, he was also at pains to remind the court how peaceful and orderly the demonstration was, casting some of his defendants as "doves not hawks" in this regard.[51] Scott's case questioned the flimsy evidence that the TWUA officials were directly involved in the demonstration even if they were present, a fact the other arrested men agreed was true.

At some points, Jolliffe's attempts to walk a tightrope between defiance and defence seemed a little hollow. When Justice Gale indignantly criticized the unionists for insulting and impuning the courts, as the Injunctions Committee leaflet had claimed the courts gave employers injunctions as a "matter of course," Jolliffe argued that this political pamphlet was created by men "inexperienced in legal language and was not meant as a criticism of the courts – just of injunctions."[52] Gale was not amused by these attempts to dance around an obvious critique of the courts. Moreover, crown counsel had strong evidence from police testimony, pictures, and printed leaflets that demonstraters were defying a court order. They were also easily recognizable; all those charged had to be identified in court by Peterborough po-

[48]*PE*, 25 February 1966.
[49]PLC, Interview with Bill Woodbeck. According to Woodbeck, C.S. Jackson and others offered to hire a lawyer for the UE men, worried about Jolliffe's former "red baiting" past. Woodbeck and others concluded "what can he do to us?" and agreed to use Jolliffe.
[50]*PE*, 11 March 1966.
[51]*PE*, 14 March 1966.
[52]*PE*, 13 March 1966.

lice, recognition made easier by intertwined social lives in such a small city (in fact, one UE staffer had advised some of the police officers on their own contract).[53] Moreover, as UE staffer Bill Woodbeck later recalled, it was hard to argue they were not picketting when some PLC leaders had loudly declared at meetings that "if it's a mass picket you want, we'll be glad to offer it ... we'll shut the city down."[54]

Nonetheless, neither the press nor the labour movement seemed prepared for the blast of castigation that Justice Gale produced in June. In a long, written judgement Gale justified his guilty verdict with unequivocal condemnation. The events in February, he wrote, were the result of premeditated, planned, and wilful conduct of those defying the authority of the courts, and it was doubtful if any other instance of contempt had "so much publicity." Admitting that these were "normally" upstanding citizens and that his decision should not be shaped by a desire for retribution he opted instead for "deterrence" as his primary justification for their harsh sentences. Citizens, he wrote, must be cautioned against all forms of defiance of the law even if inspired by allegedly legitimate goals. It was the planned, public, and unapologetic defiance of the law which so angered Gale, as well as the "scandalous" claims made by the labour men that the courts were routinely "biased" against labour.[55] Gale noted that he might have been assuaged somewhat by apologies. But none were forthcoming, only increasing his magisterial ire.

Gale made some sentencing distinctions between those who planned the demonstration and those who simply followed orders: three Peterborough leaders who led the protest and the TWUA leaders who "undoubtedly counseled" them received a very severe two months in jail, while the other men got fifteen days each. He was relentlessly unsympathetic to any appeals concerning mens' jobs or their health needs in sentencing. He told one diabetic who required insulin injections daily that there were medical facilities in jail and that he "should have thought of this before embarking on his irresponsible behaviour." And indicating a rather contemptuous view of the protestors, he told the part-time firefighter in the group he would actually like to punish him more stringently because he, of all the men, "appeared to be intelligent and industrious enough" to hold two jobs and should have a greater sense of responsibility. Only Harry Woodbeck, a steel worker who had just suffered a heart attack, was allowed a suspended sentence. Transported to Peterborough and surrounding jails (due to jail overflow) under close police escort, the men now

[53]George Rutherford (one of the five jailed for three months), for example, "got a brush cut and took off his glasses," to alter his looks but the policeman identified him nonetheless; after all, "he played fiddle for local dances." Bill Woodbeck, a UE staffer, recalled talking informally with policemen about bargaining strategies in his office, hence he was easy to identify. It is clear from interviews that police knew many of the men. PLC, Interview of J. Barry with George Rutherford; Interview with Bill Woodbeck.

[54]PLC, Interview with Bill Woodbeck. Newspapers quoted similar words.

[55]*Globe and Mail* and *PE*, 29 June 1966.

turned their efforts to unionizing the jail guards, and daily conversations about the strike, composing a Tilco song later performed by the Travellers.[56]

Many newspapers, and especially the business press, applauded Gale's law and order decision. Labour's response, and that of the provincial NDP, ranged from indignance to outrage. No attempt was made to ask if the original injunction was "just" noted some commentators; others condemned the hypocrisy of turning a blind eye to the Oshawa anti-injunction protest but penalizing those from a less powerful labour town whose MPP was not in a precarious electoral state.[57] "Something is rotten in the state of Ontario" declared one of the only Trent University professors who was vocal on the issue. Civil disobedience, Bruce Hodgins wrote in the local press, was much praised in the civil rights movement of the American south and should make the Peterborough labour protestors "heroes not criminals."[58] Indeed, labour found some editorial support from mainstream papers like the *Toronto Star* and *Peterborough Examiner*, which lamented the criminalization of respectable working men: in this case the "judiciary has legislated against public dissent by turning it into criminal behaviour, and has done it badly in the bargain."[59]

Many labour leaders were far blunter, calling it a "declaration of war against the labour movement."[60] The Gale decision, noted George Watson, Canadian head of the TWUA, will give "succor to an employer who has embarked on systematic union busting." Avowing that workers would not be cowed as Gale hoped, the UAW's George Burt prophesied that workers would "hang this decision around the government's neck for ... this ruling shows the courts being used as lackeys of the establishment."[61] Even those not usually known for their Burt-like militancy, criticized the "naivete of the judge ... and I use the word naive because otherwise we have to conclude that the courts are in collusion with employers.... [The judge] is not entitled to turn the courts into a soap box for reactionary views on political issues."[62]

Although a subsequent appeal was heard by the Supreme Court of Ontario in October, it was denied, and some of those arrested were skeptical about even at-

[56]Interviews differ on which period in jail they signed up the Peterborough guards, though they agree it was successful. This is also noted in NAC, TWUA Records, vol. clippings, *Guelph Mercury*, 10 February 1967.

[57]There was suspicion that the Oshawa demonstration was treated differently, not only because the large numbers of unionists and the power of labour in the city, but also because the government did not want to create anti-government feeling which would hurt the sitting MPP.

[58]There is certainly evidence Walter Pitman was also sympathetic, trying to get labour spokesmen on his local TV show. But the lack of visible picket support from academics was notable, and in marked contrast to later strikes such as Texpack. *PE*, 30 June 1966.

[59]*PE*, 26 October 1966.

[60]Toronto Labour Council statement, *PE*, 28 June 1966.

[61]NAC, TWUA Papers, vol. 34, Newspaper clippings, *Kitchener Waterloo Record*, 27 June 1966; *Toronto Telegram*, 27 June 1966.

[62]Carrothers, vol. 2, 28 June 1966. The remark is attributed to Eamon Park from the USW.

tempting such redress. Nonetheless, Jolliffe argued on appeal that there was a lack of evidence that the men had knowledge that the terms of the injunction applied specifically to them, and again, that their conduct did not include acts prohibited by the injunction such as picketing, while Scott claimed his TWUA clients were meeting with the police outside Tilco and were not an integral part of the demonstration. These arguments did not sway the Supreme Court, nor did it listen to Jolliffe's pertinent point that the men were deliberately charged by the Attorney General in a manner that denied their right to a jury trial (perhaps the government suspected this might have turned the men into acquitted martyrs). Union supporters were less shocked with the second decision. Privately referring to the Justices as "Grumpy, Happy, Sneezy, Dock and Bashful," one TWUA staffer summed up labour's view of the courts and their reluctance to break ranks, at least on labour issues: "you know the Club — side by side."[63]

On 24 October, as the appeal was being heard, the Tilco heroes marched to the Peterborough jail, led by Scottish pipers, and surrounded by 200 supporters including OFL leaders, politicians, strikers, a local minister, and protesters' wives, all of whom denounced the miscarriage of justice. Five men with three month sentences would later be transferred to a prison in Millbrook. Interestingly, the press coverage was now more interested in equating the word "woman" with "wife" rather than "striker." Pictures and text in a variety of newspapers created a recurring narrative of husbands going to jail on a principle, despondent wives left to console each other. As Mrs. Robert Kelley heard her husband's name called, she "wept," we are told, "tears streaming down her face, she clung to an elderly woman accompanying her." *Steel Labour* described Kelley as "a family man, with a wife and children, typical of those 26 charged"; the UE paper also carried pictures of the wives of victimized men. Photos also featured respectable, proud wives and children marching to jail with convicted fathers. Our men are fighting for a good cause, noted one wife "and we are behind them all the way."[64] The shift from striking women to heroic men seemed complete.

By the time the appeal was heard, of course, other events were closing the strike itself down. Despite a spirited July parade and rally in Peterborough to support the strikers — at which a Tory politician was "jeered"[65] when he tried to focus sympathy on himself, claiming he had received death threats — support was difficult to maintain. The TWUA was begging other unions to help out with plant gate collections and it was also under pressure from its American parent to "liquidate" the strike. Unhappy with the funds going into the strike, American TWUA leader

[63]NAC, TWUA Papers, Vol. 8, file Tilco Strike, Letter from unknown staff member to Bud Clarke and Vic Skurjat, 26 October 1966.

[64]*PE*, 24 October 1966; *Toronto Star*, 24 October 1966.

[65]*PE*, 15 July 1966. Since the implication was that this "threat" had come from pro-strike supporters, the crowd was not sympathetic. For another instance in which Tory politicians were booed by labour in Toronto see *Globe and Mail*, 8 July 1966.

William Pollock wrote to Canadian leader Watson in May paying homage to the "gallant women fighting a monstrous employer," but then quickly turned to his practical solution: "unfortunately, the possibilities of getting a contract and putting people back to work are remote. Unions run into these situations and even though they are unpleasant, it is usually in the best interest [of the union] to begin liquidating the strike." Watson did not buckle under, pointing out they had yet to have their case heard by the OLRB. In September, the American office again complained about the excessive legal bills and suggested "terminating" the strike and helping the women to find employment. Canadian leaders wanted to delay until their case before the OLRB was decided, preferring to avoid any "animosity" towards the TWUA when the strike was abandoned.[66]

The union had been attempting other means of ending the strike through the machinery of industrial legality since at least March, to no avail. Earlier conciliation reports to the Deputy Minister reveal a government which privately had little hope of ever settling the dispute. In March, one government officer could only secure a promise from Pammett to rehire eight of the strikers and this officer advised the union to begin looking for jobs for the strikers. While Pammett declared his interest in negotiating to the Minister of Labour, he would also denounce the union's picket line and tell conciliators "he had no intention of discharging replacement workers" or of settling without union compensation for damages to his property, even though such charges were never proven in any court.[67] While the union stressed its "flexibility" in negotiations, the reality was that Pammett could delay indefinitely. "The Company," admitted the chief conciliator, "is not anxious to start up talks because they are operating the plant successfully."[68] The power of the picket line to close off production was really all the women strikers had in their favour, and this was long gone, certainly in large part due to the injunction.

The final option open to strikers was to ask the OLRB for permission to prosecute a case of bargaining in bad faith against Tilco in the courts. It was a last hope, but a faint one, since the statute on "bargaining in bad faith" had proven difficult to define and the Board had been reluctant to send cases on to the courts.[69] After three procedural delays, testimony was heard by the Board in the summer of 1966, and in September, the majority report ruled for Tilco, now represented by lawyer John Sopinka. The testimony before the OLRB indicated how much the union was willing

[66]NAC, TWUA papers, Vol 8, Tilco Strike, W. Pollock to G. Watson, 20 May 1966 and Watson to Pollock, 27 May 1966; Pollock to Watson, 8 September 1966 and reply 13 September 1966.

[67]AO, DL, RG7-145-0-7 "Tilco" file.

[68]AO, DL, RG7-1-0-1090, Container 33, file Strikes: Tilco, A.C. Waugh to Minister of Labour, 2 June 1966.

[69]H.W. Arthurs, D.D. Carter, H.J. Glasbeek, *Labour Law and Industrial Relations in Canada* (Toronto 1981), 201. This process changed in the 1970s as cases could be heard directly by the Board.

Men going to jail. Photo credit: Bob Santen, Peterborough.

to give up, by April, in order to just return the women to work and keep a union alive. Skurjat's letter of 28 April asking to meet with Pammett concentrated only on slowly rehiring the women, having dues check off, and keeping the union the bargaining agent. Pammett offered to take five strikers back, though he would not name which ones. It is hard to imagine a less accommodating position; if the union acquiesced, it was tantamount to self destruction.

Testimony by women strikers before the OLRB relayed Pammett's repeated claims that he would break the union, as well as his bombastic denunciations of the women involved. Combining sexism, homophobia, and anti-union sentiment in a neat package he had informed Lil Downer (among others) that he was not going to have "no good older women" or "lesbians" working for him, hence his refusal to take most strikers back. His repeated derogatory comments about "older women" (anyone over 40 in his mind) and apparent reluctance to hire married women indicated that he preferred women he could patriarchally designate as his "girls." Pammett's endless tirades of aggressive anti-union bragging were also repeated by union members and officials. Not only did he claim that the union got them in a place "where they could not negotiate" but he would "not take strikers back and

knew this could not be accepted by the union." Sopinka tried to excuse Pammett by countering with the standard image of the rough and violent picket line, and according to the press implied that once violence takes place, a strike is no longer lawful. When he asked picketer Lillian Croker if she had been using "bad language," on the line, she shot back "Not any more than Pammett used."[70] Finally, Sopinka dismissed Pammett's statements, asking witnesses, "didn't he have a reputation for making statements he didn't always mean?"[71]

The majority OLRB's report agreed that such "utterances" did not really matter as much as Pammett's "conduct." Since Pammett attended the May meeting with the union and did discuss matters outlined in the TWUA letter, and since he said he would take *some* strikers back, he was technically bargaining. In keeping with existing labour law, the OLRB refused to assess the *content* of the offer or to take into account "hostile statements" of the employer. Nor did an employer have to bargain "past an impasse."[72] If injunctions pointed to one impediment to women unionizing, the weakness of such "protection" by the OLRB pointed to another. The Board reduced the strike to a "misunderstanding" about the signing bonus, throwing up its hands and declaring it really could not tell who was lying about the original verbal agreements. Interestingly, the majority report hinted at its dissatisfaction with the *cause celèbre* that the strike became, claiming this created a climate of "antagonism" after February, making negotiation difficult.[73] Mass militancy and protests, in other words, were not to be encouraged.

TWUA leaders dismissed the OLRB decision as a "farce ... a travesty of justice."[74] To the workers, it confirmed the illusory nature of the state's "neutrality." At every step of the way, they felt they had encountered laws and industrial relations procedures more sympathetic to the company, less appreciative of the unequal relations of power they faced. After the OLRB report, the TWUA encouraged the women to re-train and find other jobs. Lil Downer's two sisters, both strikers, undertook a retraining course in business but eventually found employment at Brinton Carpet; other younger women found service sector positions, with the "older" women finding re-employment most difficult. As Nicola Martin found, some resolute strikers became jaundiced about union activism: one "seemed quite proud of the fact that she [spoke out against] a strike at Brinton, referring to her experience at Tilco." A feeling of "failure and bitterness" coloured their memory of the strike.[75]

[70]*PE*, 23 August 1966.
[71]NAC, TWUA Papers, vol. 35, clippings, *Toronto Telegram*, 23 August 1966.
[72]H.W. Arthurs, *et al.*, *Labour Law*, 201; A.W.R. Carrothers, *Collective Bargaining Law in Canada* (Toronto 1965), 290-1; Industrial Relations Centre, *Labour Relations Law: Cases, Material and Commentary* (Kingston 1974), 207-25.
[73]NAC, TWUA Papers, vol. 8, file Tilco Strike, Legal Documents, OLRB Report between TWUA and Tilco Plastics, 6.
[74]NAC, TWUA Papers, vol. 8, file press statements, and *PE*, 23 September 1966.
[75]Nicola Martin, "Do They Pay the Minimum Wage Yet?" 25.

David Archer could triumphantly declare that this was the most important struggle since Kirkland Lake in 1942, but his views were not necessarily shared by the women who walked a picket line for almost a year, only to lose their jobs.

The Rand Royal Commission: The Political "Management" of Class Conflict

If the state had so decisively trounced the labour movement in the Tilco affair, why did it appoint a Royal Commission to look into injunctions, and indeed the whole context of labour disputes? The answer lies in part in the political acumen of the Tories under John Robarts, who was responding to the immediate pressures exerted by labour and capital in the wake of Tilco. Labour repeatedly dared Robarts to call an election on the issue of injunctions, promising to carry its campaign to every ballot box in the province. Their allies, NDP (and some Liberal) members in the Legislature, were getting a lot of press, and newspaper editors were also calling for government action. Moreover, even if the Tories did not see themselves as the party of labour, their centrist-populist appeal relied, in part, on some working-class votes.

The government's decision was also predicated on the broader social climate of union militancy and labour-capital tensions.[76] Embracing a time-honoured tradition for dealing with social conflict, they appointed a Royal Commission, thus passing the buck to an appointed expert arbitrator, delaying action until calmer times, and maintaining the image of state neutrality. On 9 July 1966 Robarts named 82 year-old Ivan Rand, retired from the Supreme Court, to head up a Royal Commission on Labour Disputes (RCLD). Internal documents indicated they mused over a few names, and publicly they claimed they could not appoint sitting Ontario Court of Appeal Justice Bora Laskin when one Liberal MPP urged them to do so. More likely, they feared he was too sympathetic to labour.[77] Rand, in contrast, had a solid intellectual reputation as a small "l" liberal on the bench and was still known for his legacy to unions, the Rand Formula (or union check off), the political outcome of

[76]The same climate of labour unrest sparked the federal Woods' inquiry, also an instance in which industrial relations authorities offered their expert advice to a state uneasy with increasingly antagonistic employer-labour relations. Chris Huxley, "The State, Collective Bargaining, and the Shape of Strikes in Canada," in T.C. Caputo, *et al.*, eds., *Law and Society: A Critical Perspective* (Toronto 1989), 228. For the Woods inquiry see H.D. Woods, *Canadian Industrial Relations: The Report of the Task Force on Labour Relations* (Ottawa 1968).

[77]AO, DL, RG7-1-0-1220, Container 38, file Injunction. Beside Laskin's name, a clear "no" was written. After being urged to set up an inquiry with Laskin at the head by a Liberal MPP [Ontario Legislative Debates, 5 May 1966], Robarts claimed publicly that they could not use Laskin as he was "a sitting judge" and this Liberal member had supposedly criticized judges in general, thus "making it almost impossible to name a member of the judiciary." *Globe and Mail*, 9 July 1966. Since sitting judges could chair inquiries, it seems like an excuse. In the Minister's files was a clipping which offered Rand's critical views on organized labour, given after his retirement.

his arbitration of a major auto strike in 1946. At the same time, his more recent public statements, including criticisms of labour, indicated he could not be clearly placed in the labour "camp."

Rand was supposed to deliver the government from the most immediate duress of simmering class conflict. Private pressure was being brought to bear on the government by the heads of "large capital" such as the CMA and Stelco, as well as some smaller employers, not to "give in" to the labour movement's demands for reform of injunctions. Also, when the government failed to prosecute after the Oshawa injunction was challenged by a mass picket, it was denounced by many newspaper editors with articles such as "The Force of Evil" and "Downpayment on Anarchy." One editor, facing his own printers' strike, railed that injunctions were needed to protect employers "from the lawless, brutal mob scenes and direct threats to life and property engendered by otherwise uncontrollable strikers."[78] If the conservative press rather exaggerated the potential for revolution, it reflected the anger of businesses that perceived labour to be too demanding, powerful, and increasingly out of control. When the Tilco affair sparked public calls from some labour leaders for a padlock law to shut down the premises on strike and anti-scab legislation, the CMA became apoplectic, predicting that the "rights of management would soon cease to exist."[79]

At the same time, the labour movement itself was being challenged by its more militant members, a fact causing considerable government consternation. When the injunction issue was raised at the national Canadian Labour Congress convention in April 1966, some delegates were unhappy with the leadership's proposed resolutions on the issue, calling instead for a more militant campaign of civil disobedience. As more than one reporter noted, the convention floor was feisty, intolerant of leadership caution. Inflation and persisting patterns of unequal income distribution, along with a generation of more aggressive young workers, were producing rebellion and dissatisfaction, sometimes directed against the union leadership.[80] Similarly, when Toronto lawyer John Osler presented his study on injunctions to a CLC conference on labour law in the fall, his assertion that the complete abolition of injunctions was unrealistic, was countered with rank and file demands for a more radical platform of complete abolition, a position quite different than that of the leadership.[81]

[78]AO, Ministry of the Attorney General, RG4-2, Box 303, File 303.6, editorial of *Sault Daily Star*, 30 June 1966 sent to A.A. Wishart, the AG.

[79]Carrothers, vol 2, 15 February 1966.

[80]Mungo James, "Labour Lays it on the Line," *Saturday Night*, December 1966, 25-8.Other issues, especially public sector unionism, indicated a leadership under fire. When David Lewis and Eugene Forsey cautioned that the right to strike might be an unrealistic goal for the public sector, more militant delegates voiced their loud disagreement.

[81]AO DL, RG7-12-0-3248, John Osler, "Labour and the Law Regarding Injunctions," paper presented to National CLC Conference on Labour Legislation, 28 September 1966.

Finally, it was no accident that one of the studies funded by the government at this time looked into recent wildcat strikes in the province. Wildcats increased significantly in the mid-to-late 1960s, and in the spring of 1966, the Minister of Labour warned that this unacceptable assault on the stability of production might lead to legislation permitting employers to sue unions for damages. The leadership of the USW, which itself faced more than one angry wildcat by discontented members in 1966, countered that unions should be permitted to bargain on new issues in the life of the contract, a position that was a complete anathema to management.[82] This clear indication of a simmering dissatisfaction with the limits of industrial legality, even with the prevailing union leadership, became a preoccupation of Rand during Commission hearings.[83] CMA spokesmen complained to him that "younger, more militant leaders were coming to the fore, with no experience of hardships, the futility of strikes and also [affected by] a buoyant economy."[84] Echoing his sentiments, a union leader warned that a new generation of workers did not have the "sobering experience of unemployment in the depression and are not content to be as patient as [are] some of their leaders."[85]

Rand's Commission became a lengthy affair, crisscrossing Ontario to hear testimony — over 5000 pages of it — from labour and employers, preparing a statistical questionnaire on strikes sent out to unions and employers,[86] traveling extensively both nationally and internationally, and consulting material prepared by legal consultants. It started, appropriately, reviewing the Tilco strike in Peterborough, but the strikers themselves were not called to testify, although some of the 26 imprisoned supporters were. Indeed, *not one* woman testified in the whole commission. The predominance of male union leaders underscored the way in

[82]There were 369 wildcats in Canada in 1965-66, Bryan Palmer, *Working-Class Experience*, 315-6. The Minister cited 37 in Ontario in the previous year. On some of the 1966 conflicts see Carrothers, vol. 2, 19 January 1966 and 23 March, 1966 and Stuart Jamieson, *Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900-66* (Ottawa 1968), 431-3. As the Rand Commission indicated, technological change was often a precipitating issue as workers found that they could register no protest at all during the tenure of the contract, and by the end of the contract, it might be too late.

[83]There was even a wildcat at Hiram Walker in Toronto, during the Rand Commission hearings by 100 employees after management refused to allow three workers to attend the hearings. *Toronto Star*, 23 March 1967.

[84]RCLD, testimony, 2620.

[85]Carrothers, vol. 2, 23 March 1966.

[86]The strike study appears as an appendix to Ivan Rand, *Report of the Royal Commission Inquiry into Labour Disputes* (Toronto 1968) (hereafter, Rand Report). I have not drawn on it because the Report admitted it could not claim it was "statistically valid." Employers returned their questionnaires at a rate of 40 per cent and unions at a rate of 18 per cent, a fact which immediately indicates labour's suspicions of the Commission. It is interesting to note the questions Rand asked, which accented labour's lack of discipline and adherence to collective agreement.

which women strikers had been sidelined. As a result, women appear in only the most cursory and stereotypical manner. When the President of the Toronto Labour Council was asked why people were strikebreakers, his response was "maybe ... his wife persuaded him to return to work," and he later added that violent picketers were "often women who were the most venomous."[87] The Commission counsel, Pollock, also slipped in sexist remarks: when one witness referred to the "monsters" (i.e. new technology) causing trouble in some plants, he quipped, "you mean they are hiring women?"[88]

Those unionists who had been involved in the Tilco strike were more generous, depicting the women strikers as victims of a resolutely anti-union employer and a industrial relations system not only blind to the unequal balance of power between the workers and employers, but legally biased in favour of the latter. They were adamant that the injunction had killed the strike by allowing strikebreakers in at a critical moment, and TWUA, at least, made a connection between the use of injunctions and the difficulties in organizing small workplaces, particularly those with underpaid women workers. It was often the "newly organized, low-wage and relatively small establishments" in manufacturing which rush to secure injunctions, a key tactic for demoralizing and potentially criminalizing workers, they charged. UE leaders took a similar position and, to Rand's displeasure, rejected the notion that the state was "an impartial umpire," dismissing most picket problems as the result of "agents provocateurs"and denouncing injunctions as nothing more than strategic weapons to "break unions."[89]

The absence of women testifying, and especially the very minimal discussion of the special problems of organizing women in low-wage sectors, pointed again to the limits of the Fordist accord. The ways in which labour law, created first with craft, and later industrial unions in mind (in essence, with the the white, male worker as a model), exacerbated the difficulties organizing more marginalized women workers; they were simply not central to the labour movement's agenda at this time. Despite the importance of Tilco in crystallizing labour's opposition to injunctions, many union witnesses, and certainly Rand himself, imagined labour disputes with male subjects in mind. This became clear in heated discussions in the hearings about violence, picket lines, and so on, in which Rand and his counsel offered up images of large, powerful (industrial) unions and male workers intent on keeping their existing privileges, rather than small, under-organized and insecure unions like the Tilco local.

[87]Rand then replied, "well, as they say the female of the species...." RCLD testimony, 631.
[88]RCLD, testimony, 2127. Women were also portrayed as strikebreakers by one labour witness, 1276.
[89]UE Staffer Ross Russell, for instance, pointed to the injunction secured against them in the Lanark strike as a prime example of a judge biased against the union: "the employer was not even cross examined in court, but we were." RCLD testimony, 832-3.

If modifying injunction law had been Rand's only goal, he might have quickly utilized the many recent, government-funded, academic studies on the issue.[90] In 1964, Professor Harry Arthurs produced a comprehensive study for the government which laid out the legal problems with injunctions, such as the low standard of proof and lack of appeal, and he recommended basing injunctions on statutory not judge-made law, or replacing them with orders issued by the OLRB.[91] In February of 1966, the Minister of Labour commissioned another massive study of injunctions headed up by Professor A.W.R. Carrothers. His statistical evidence lent firm support to labour's critique. The number of labour-related injunctions in Ontario was increasing in the 1960s, especially in 1962, 1964, and 1965, and, according to Horace Krever's sub-report, "nearly one half of the labour injunction cases in Ontario from 1948 to 1966 were cases in which ex partes had been granted."[92] Unions linked to the construction and transportation industries were most often the targets of injunctions, while manufacturing came second, and the majority of injunctions also sought "damages," a legal tactic that must have unnerved unions fearful of picking up the tab for damages perpetrated by unknown persons against a company. The Carrothers study also indicated that injunctions were likely to continue in identical form from the original notice of motion (showing, just as labour charged, that once initiated, injunctions were seldom altered) and the vast majority were filed by employers not employees. Technically, unions could pursue injunctions; in practice, they seldom did so, feeling it was a useless strategy, and their few attempts to do so indicated they were right.[93]

His evidence also demonstrated that *viva voce* evidence (testimony in person, with evidence weighed by judge or jury) was rare; and the majority of *ex partes* (188 of 350) were continued as longer interim injunctions. Moreover, even those injunction applications *with notice* were granted in over three quarters of all cases.[94] Finally, employers did not seek injunctions primarily to protect human limb and life (for example against assault), but more often to enjoin picketing, stop mass picketing, prevent "intimidation," "inducing breach of contract," or "accost-

[90]Not all Tories thought the government needed to act. MPP Darcy McKeough, for instance, wrote a private letter saying injunctions were not really a problem but that the "County and Supreme courts have been rather eager to give them out ... but maybe this controversy will cool off their anti-union ardour just a little bit and the proper result will be achieved." In other words, even the Tories knew full well that the decisions were "anti-union." AO, DL, RG 7-1-0-1830, Minister of Labour Correspondence, Royal Commission file.

[91]AO, Harry Arthurs, "Memorandum on the use of injunctions in labour disputes, prepared for the Dept of Labour," 8 October 1964.

[92]Horace Krever, *The Labour Injunction in Ontario*, 13. Note that this contradicted what Marshall Pollock tried to tell labour witnesses appearing before Rand; he emphasized that few *ex partes* were ever used.

[93]For such an unsuccessful attempt see Canadian Labour Law Cases, 1960-64, vol. 2, International Chemical Workers Union vs. Consumers Gas, 773.

[94]That is, in 92 of 119 cases. Krever, *The Labour Injunction*, 87

ing employees." Injunctions, in other words, were often secured to prevent a vigorous picket that was dissuading workers from crossing the line.

Almost all the expert studies commissioned were critical of injunction law as applied to labour disputes; though couched in academic parlance, they legitimized labour's long-time suspicions of the law. Horace Krever not only pointed to the unjust aspects intrinsic to injunction law, but he also understood that it took on an ideological life of its own. "Psychologically," he noted, the legal profession believed that securing an *ex parte* was a strategically powerful manoeuver, as injunctions would "inevitably" be continued. Trying to overturn an injunction was then not worth endless lawyers fees as they sat all day in Weekly Court only to find continuance was a "foregone conclusion." Nor was the actual balance of power within a particular labour conflict taken into account by judges said Krever, precisely the complaint of trade unionists.[95]

The briefs submitted directly to Rand were somewhat predictable: long-winded, detailed, and polarized between capital and labour. The Canadian Labour Congress brief, for example, not only outlined the problems with injunctions but argued that they mirrored a larger reality: that every person was not "free" to join a union; that capital still held the strong balance of legal power; that it was mere "fiction"[96] that labour was in any way economically equal to capital. Even while stressing this inequality, labour generally opted for making the rules of the game fairer through reform of labour relations legislation, especially concerning the right of the public sector to bargain, the banning of strike breakers, and so on.

The Canadian Manufacturers Association's 60 page opus, which wrapped its objectives up in the language of the "public interest," claimed to want "freer" collective bargaining, reducing constraints imposed by an interventionist state, though it was in favour of state interventions that limited union rights. Government compulsion, they argued, should decrease, save for private and public sector strikes when the "health and safety of the public" was endangered. Indeed, they wanted the OLRB's right to prosecute for unfair labour practices completely withdrawn. Predictably, they demanded that wildcats, boycotts, and secondary picketing be banned, but employers' right to continue operating during a strike, (i.e., hiring strikebreakers) be protected. They admitted to the need for reform of injunction law, such as better notice given, but at the same time resurrected the specter of 19th-century combination acts with their demand that labour should be "accountable" (i.e., sued) for their actions. Labour, they continually said, had now acquired "substantial power and wealth," and must become more "responsible" just as they claimed capital was.[97]

[95]Krever, *The Labour Injunction*, 13, 19.

[96]Canadian Labour Congress, Brief to the RCLD, 2.

[97]AO, DL, RG 7-1-0-1350.1, Submission of the Ontario Division of the CMA to the RCLD. The claim that "smaller units" of workers were being organized (although the CMA tended to represent large capital), that union organization was spreading to the public sector, that

What is perhaps more revealing than the official briefs was the Commission's verbatim testimony. Here, Justice Rand and his government appointed counsel, Marshall Pollock (who helped with the Attorney General's case against the Tilco 26) posed questions, and often sparred with union leaders. While Rand was sensitive about his historic reputation — "I have just as much sympathy with working men as you do"[98] he once snapped at a union leader — his own testimony indicated, instead, a gulf between his views and those of the labour movement. Labour witnesses were not of one mind, with a few carving out a more radical position, others offering moderate suggestions: some UE leaders issued blanket condemnations of all injunctions, while the USW leadership and counsel suggested pragmatic reform. But, overall, labour testimony indicated a deep suspicion that the legal system was skewed in capital's favour and that "courts reflected the establishment rather than the needs of working people."[99]

Injunctions, unionists argued, were granted on the flimsiest of evidence that exaggerated an image of the inevitably menacing, out of control, even violent working-class picketer, an image judges seemed to implicitly accept. Even actions as simple as giving out leaflets to those in cars could be interpreted as threatening passengers.[100] Injunctions also drew unions into a spider's web of legal procedures which they complained it would take a Philadelphia lawyer to work out; they felt trapped by reliance on counsel who often advised them to accept not fight injunctions — otherwise, they would be destroyed by one legal delay after another. When Rand brought the issue back to the fairness in the *letter of the law* during the hearings, unionists retorted with examples indicating the unequal *context and practice* of the law. One can sense the irritation, if not antipathy, in the voices of labour witnesses as they told Rand: "you don't understand how it [the law] works." More cynical was Bob Sargison, a steelworker jailed for his involvement in the Tilco strike. As he put it: "we no longer respect the law."[101]

Rand took considerable umbrage at this apparent disrespect for the law. He was particularly bothered when labour men told him that injunctions were given "automatically" by judges. He challenged one such witness to give him "one case where the law was not followed" properly and added, in indignation, "I am astonished you have the opinion of the police and courts that you do when they protect you from thugs you talk as if they are utterly irresponsible. I know more about the courts than you do and I say there is nothing of the sort [i.e., no collusion or unfair-

"labour was mobile, while capital not" (!) revealed fears of labour. Manufacturers' representatives also knew how to appeal to Rand, stressing *their* respect for the courts – unlike labour men testifying.

[98]Rand, RCLD testimony, 895.

[99]David Archer (President of the OFL), RCLD, testimony, 35.

[100]The mere presence of people can be designated "intimidating." RCLD testimony, 2369.

[101]RCLD, testimony, 1835.

ness]"[102] He was also critical of the use of civil disobedience, an interesting stance given that the Ford strike, with its mass blockade, was premised on civil disobedience. Stanley Rouse, jailed for three months, disagreed, claiming that "changes brought about for the benefit of working people usually come out of demonstrations like [the Tilco] one, rather than what you call 'normal processes'."[103]

The same antagonisms were played out on issues such as picketing and strikebreaking. Part of the distance between Rand and labour witnesses, of course, appears in the record because the Commission counsel, Pollock, was more deferential to employers and sometimes antagonistic to trade unions. "All problems stem from picket lines," he said, and in his mind, it was labour, using intimidating tactics, causing them.[104] His anger at militant UE leaders jumps off the pages of testimony as he pursued them relentlessly when they tried to argue that "a lawful picket includes the privilege of obstructing access." Strikebreakers "have a right to work too," he replied.[105] Rand, similarly, portrayed mass pickets as improper, a "total invasion of employers property" and warned that such tactics were discrediting labour. More than one labour witness finally exclaimed in exasperation, coming right to the material point: "you are saying it's all right to steal someone's job."[106]

After the hearings closed, Rand traveled widely before issuing a report in September 1968. It opened with a liberal statement on the right to private property as well as the desirability of free collective bargaining but also warned that social uncertainty and upheaval threatened the existing social order. Referring ominously to the recent uprising in France, to crime in the US, to "these days of social evolution, unsettling of views and attitudes and polygot tongues," Rand argued for a means of protecting the "public interest" by imposing more state regulation on capital and labour; otherwise, the "social danger" in each was "oligarchic and monopolistic control, the universal tendency of unrestrained human drives and appetites." Essential to his findings was an understanding that labour and capital were "roughly equivalent in power" and that Canada was "no longer in a society of stagnation and poverty; it is distribution within a society of wealth with which we are concerned ... [in Ontario] strikers do not deal with conditions ... of ruthless exploitation."[107] The Tilco women might have disagreed.

There were some minor reassurances for labour, including his emphasis on existing rights within the labour code, and, on first glance, his statement that strikers should not lose their employment. But even the latter statement was modified with caveats for Rand did not countenance a ban on strikebreakers as the government

[102]RCLD, testimony, 2185.
[103]RCLD, testimony, 1830.
[104]RCLD, testimony, 2698.
[105]RCLD, testimony, 1857.
[106]RCLD, testimony, 1857. See also Rand Report, 11.
[107]Rand Report,18 , See also NAC, Justice Ivan Rand Papers, MG30, E 77, (hereafter Ivan Rand Papers), vol. 5, Royal Commission recommendations draft, 9.

feared he might. Replacement [of strikers], if there is any," he wrote, "should come from the ranks of the unemployed."[108] On other issues, he supported the CMA. Mass picketing and boycotts were condemned, and even normal picketing had to be monitored for labour was under a "misconception of what is permissible conduct."[109]

On the issue that had started this train of events, injunctions, he ventured that it might be preferable to have injunctions issued by the courts rather than police involved in strikes, as their presence gave labour a taint of "criminality." This completely ignored labour's repeated claim they would *rather* deal with the police only laying criminal charges when there was actually evidence of criminal actions. Evidence, Rand did grant, should be given *viva voce* and on notice, and *ex partes* granted, "only in cases of emergency" (raising the question of how the courts would interpret emergency). It was more or less what the 1958 committee had recommended, but this time with a larger price tag. The report also exposed Rand's opposition to public sector unions having the right to strike. Throughout the hearings he had often asked workers "how would you respond if your wife needed hospital care and staff were on strike"[110] — clearly looking for a negative response.

The report was wordy, and it sometimes rambled or was contradictory. Trying to decipher its usefulness, one government officer told a colleague, it was "too confusing for rational beings to cope with, so I suggest you forget about it."[111] Rand's major innovation was a call for a new eleven-man labour tribunal, modeled on the Australian system, to mediate, with a heavy hand, labour-capital relations. The tribunal would override the OLRB and the courts, making decisions on everything from certification to how many pickets would be allowed during a strike. Appointed by Cabinet, it could terminate public sector strikes, make awards in "essential industries," force compulsory arbitration after 90 days on strike, shape agreements, even terminate strikes after six months. This tribunal would also try to infuse more "democracy" into unions by allowing *any member* to come to the tribunal after 45 days on strike to demand a secret mail ballot, and unions would have to more effectively control rank-and-file dissent as they would be legally liable for wildcat actions unless they could show they actively quashed them.

How might Rand's solution have affected the women workers at Tilco? It is possible that some women workers in difficult-to-organize, smaller workplaces might have benefitted from the paternalistic, heavy hand of the state, by imposing

[108]Rand Report, 37.

[109]Rand Report, 32.

[110]RCLD, testimony, 2164.

[111]AO, Labour, DL, RG7-1-0-1762.2, Container 65, LRA. There are other examples. On first reading, a clear concession to labour appeared to be a "no strikebreaking" clause which said that other employees could not do strikers' work, but on closer examination, this meant other employees within the unit. This was then later reinterpreted as the need to promise strikers they could return to their work – as some labour writers noted, an invitation for people to abandon a strike.

collective bargaining and first contracts, though such solutions have the danger of discouraging rank-and-file mobilization. But the premise behind Rand's call for the state's stronger role, that is, the idea that labour no longer represented the exploited and had become just as powerful as capital, ignored the existence of many workers marginalized by race and gender and it discounted the problems of less powerful, smaller unions. The transformations occurring in the workforce since the Rand decision of 1946, including the increasing influx of women and immigrant workers, often into "second tier" jobs, were obscured in Rand's report.

Even before its release, government bureaucrats worried that the report was going to offer up an impossible "political formula," with a host of new legal offences which would precipitate "new conflict and violence."[112] Employers were unenthusiastic about the concept of a new, highly interventionist labour tribunal but they did endorse Rand's support for a modified law on injunctions, his antipathy to boycotts and mass pickets, his strong assertion of the need to respect the courts, and, of course, his suggestion that under some circumstances, unions be liable for damages. As the *Financial Post* editorialized, clearly revealing a business agenda: "the climate seems right for new laws to curb unions' power."[113] Even more liberal papers, like the *Toronto Star*, were sympathetic to Rand's proposals to ban public sector strikes and make unions legal entities. Using gendered language which underscored how completely the Tilco strikers were lost sight of, and how the Fordist "accord" was presumed to extend to all workers, the paper noted that unions "were big boys now and should be legally responsible for their actions."[114]

Labour spokesmen hated the report. It was so unacceptable that the OFL and other leaders began to stress their affection for the current system of collective bargaining, claiming it needed "tinkering with" not destruction in favour of some wild "experiment" with tribunals.[115] They feared an all powerful, state-appointed tribunal with immense discretionary, interventionist powers, probably because their faith in the objectivity of the existing state legal machinery was already less than certain. The OFL campaigned vigorously against the report, issuing publications exposing the anti-labour biases of Rand, and denouncing the notion of a "well paid" lawyer-dominated tribunal determining labour's fate.[116] Other Rand recommendations, such as monitoring union politics to ensure "democracy," making unions lia-

[112]It appears Rand told them he was thinking of completely banning strikebreaking and the picket line — which he did not. AO, DL, RG 7, T.M. Eberlee, Deputy Minister to Minister of Labour, Dalton Bales, 9 August 1967.

[113]*Financial Post*, 14 September 1968.

[114]NAC, TWUA Papers, vol. 16, file Royal Commission clippings, n.d.

[115]NAC, CLC Papers, MG 28 I 103, vol. 412, file 5 Rand report, OFL, "The ABCs of the Rand Report."

[116]NAC, CLC Papers, MG 28 I 103, vol. 412, file 5, Rand Report, OFL, "The ABCs of the Rand Report. See also Douglas Fisher and Harry Crowe, *What Do You Know about the Rand Report?* (Toronto 1968).

ble and so on, were obviously unpalatable as well. Rand, they charged, would "turn the clock back 50 years" with his one-sided, paternalistic, and legalistic curbs on union activity, while capital's power was left unchecked.[117]

There is no doubt that Rand's report was less sympathetic to labour than his 1946 judgement in the Windsor strike. Rand's liberal values and desire to balance contending economic groups in the public interest were clear in both cases, but he imagined a different context in 1968, characterized by social upheaval and the emergence of "big" labour. Although trade unions had gained power through the process of industrial legality, Rand's image was somewhat skewed. The question is why. While one would not want to argue that "we are who we eat with," Rand's immediate social and political milieu could only reinforce his current apprehensions about "big" labour. As temperatures chilled in January 1967, he embarked on a "small" Australian tour of seven cities with his counsel, Marshall Pollock. Though Rand claimed he wanted "informal and frank" discussions with management and labour, his agenda was crowded with male judges, government officials, chambers of commerce representatives, and law professors, not unionists.[118] The same was true of his summer European research jaunt, consisting of London, Stockholm, Paris, and Geneva, where he met government officials, corporate managers, and attended embassy cocktail parties in his honour (dominated by business leaders). Far less time was spent with unionists, and then, only top bureaucrats.[119]

His circles of discussion in Canada were similarly revealing. No unionist appears to have been advising Rand,[120] though he clearly had discussions with men in the legal and business communities, ranging from a provincial Deputy Minister of Labour to the president of the Iron Ore Company (over lunch at the McGill University Club), to an Ontario Crown Attorney who met Rand at the Park Plaza and discussed cases involving "illegal picketing," including the Crown Attorney's all-time "favourite," a case in which unions were convicted of watching and besetting for a "'mass' picket."[121] Rand also heard from an anti-union Ontario court

[117]Fisher and Crowe, *What Do You Know*.

[118]NAC, Ivan Rand Papers, MG30, E 77. The list of those consulted at the back of his report is much longer and includes more trade unionists, though always those in the top leadership (this list probably included those consulted through letters as well as in meetings.) Unionists are still outnumbered by legal experts, bureaucrats and those involved in the arbitration machinery in Australia.

[119]NAC, Ivan Rand Papers, vol. 4, Correspondence re Royal Commission. On Crispo, see letter to Dean Woods, 5 January 1968, and from Woods to Rand, 30 December 1968; on Australia, Rand to High Commissioner of Australia, 30 December 1967. The files also contained itineraries and lists of those he met with.

[120]Rand did receive information from a labour consultant, former USWA leader, Charlie Millard, and he had some contact with Professor John Crispo, involved in the federal Woods inquiry on industrial relations. NAC, Ivan Rand Papers, vol. 4, Correspondence file, Rand to Woods, Chair of Federal Task Force on Labour Relations, 30 December 1966.

[121]Rex v. Doherty and Stewart, 1946, vol 86, CCC, 289.

judge, and after having a wonderful "chat" with a Canadian Manufacturers' Association official on a plane to Toronto, the latter continued to communicate with Rand.[122]

Perhaps most interesting is correspondence with lawyer W.L.N. Somerville, QC, who also met Rand for an informal discussion about labour issues over dinner at the Granite Club. Somerville's correspondence to Rand is virulently anti-union, with choice passages often underlined — one presumes by Rand, though we cannot say for sure (or why). Somerville argued that unions had become "big, arrogant, powerful, sometimes more so than employers"; they also contained "demagogues" who needed to be "tamed" as earlier capitalists and corporations *had been*. He deemed injunctions to be "crucial to the welfare of society"and he claimed unions "directed an undifferentiated broadside of gutter abuse, threats of violence and physical force against all strike breakers." Citing his experience with Hal Banks (he acted for a shipping company) he claimed that allowing workplaces to be "sealed off" by the union in a strike without "free" movement of labour simply led to such "power-mad gangsters." The "public good," must be protected from near monopolistic labour unions, he concluded, echoing the Rand Report's later preoccupation with the "public good."[123] Even though these letters do not necessarily reflect Rand's ideas, they do show he was lobbied by those with views highly critical of their imagined opponent, "big" labour. Trade unionists, it seems, were not part of Rand's circle, and did not even try to influence him.

Denouement

Rand went on to chair an inquiry on labour in Newfoundland and left his Ontario report for unhappy bureaucrats to decipher. It was not a complete political liability for the Tories as they claimed their subsequent revisions to the labour code, tabled in 1970 as Bill 167, used his expert advice. Yet the innovative core of his report, the notion of a labour tribunal with powers much like the Australian labour courts, was rejected. The Tories were also not willing to go as far as Rand on suggestions disagreeable to labour, such as banning mass picketing, but Bill 167 still contained clauses which would make organizing workplaces like Tilco harder.[124] The gov-

[122]NAC, Ivan Rand Papers, vol. 4, Letter from the former Deputy CA for Ontario, 31 March 1967 and from Bill Wightman, 27 March 1967 to Rand.

[123]NAC, Ivan Rand papers, vol. 4, Correspondence file. Letter from Somerville to Rand, 31 May 1967 and reply of Rand, saying he would like an informal discussion with him, over dinner, 5 June 1967, and letter from Sommerville to Rand, 16 August 1967.

[124]AO, DL, RG7-0-1645, Container 61, Press clippings on Bill 167. Papers such as the *Globe and Mail*, even the *Toronto Star*, were sympathetic to laws banning mass picketing, and labour recognized it was lucky to escape some of Rand's recommendations. As one pro-labour writer noted in "A Guarantee to Break Unions," aspects of the bill (such as fewer members needed to de-certify) and the "job-guarantee" would make organizing "small plants in small towns" all the more difficult. *Toronto Telegram*, 26 June 1970.

ernment's internal discussion about one key clause decisively challenges its claim to umpire status between labour and capital. While Rand's discussion of workers' right to return to their jobs might be read as a pro-labour attempt to make sure that strikebreakers did not replace strikers, in fact this recommendation was re-fashioned as an anti-union measure in the Bill. In public, the Minister of Labour claimed this "job guarantee" amendment would serve to "alleviate the fear of permanent job loss that frequently plays a major role in the tension and violence associated with picket line confrontations." In private memos to the cabinet, the Minister's own officials explained that this section of the bill would definitely aid employers who wished to break a collective strike: "it actually is not at all favourable to the striking union ... it favours the individual employee ... gives him support, if he sees that a strike is being lost, in abandoning the union's position and going back to work." A subsequent memo stressed this even more emphatically: "employers may not object [to this clause] once they realize that it may affect the power of the union to control its members."[125]

At a local level, the Tilco affair did break down Cold War factionalism within the labour movement as men from contending unions cooperated to support the strike and served jail sentences together. Some unionists felt this ultimately aided the national reintegration of the UE into the CLC as well. It also re-invigorated local social democratic activism: some of the imprisoned Tilco men ran for local office from their prison cells (though they did not do very well, claiming it was too hard to campaign from prison), while Stanley Rouse campaigned for the NDP nomination. In the 1967 provincial election, Walter Pitman (previously a federal NDP MP), drawing on strong labour support, took the seat for the NDP, substantially increasing the NDP electoral vote from 15 per cent to 45 per cent. Tilco is now perceived as a "highwater" point for labour militancy and solidarity in a city subsequently scarred by de-industrialization. Yet the injunction battle, more than the strike itself, has assumed a central place in the presentation of Peterborough's labour history by the current labour council.[126] Some former UE activists also interpret the affair as evidence of *their* history as the more "militant" section of the local labour movement. Not coincidentally, in one interview a former UE leader who was jailed remembered the particular verse of the Tilco song which captured this image: "And to you, convicted Steelworkers/you are a great bunch of guys we agree/for the courage you showed to all labour/we'll let you sign up in UE."[127]

The tragedy, of course, is that the actual women strikers became less central to this narrative. If the imprisoned men had their wages paid by their unions or the labour movement and were able to return to work, the women lost the strike, and sac-

[125]AO, DL. RG7-1-0-1762.2 Minister's Correspondence File, notes 22 June 1970 and memo to cabinet; 7-1-0-1763.2 Minister's Correspondence File, LRA.

[126]For example, see the web site of the Labour Council, www.ptbolabour.

[127]The song is sung to the tune of My Bonnie Lies over the Ocean. Interview with Bill Woodbeck. The song had fifteen verses, one for each day of imprisonment.

rificed their jobs. This garnered a vivid and bitter reminder of just how "second tier" they were in this era of Fordist accord. Most strikers did not initially blame the Canadian TWUA, which at least in rhetoric, maintained its commitment to the strikers. The defeated strikers, however, did not know that the American international had been complaining about legal bills, telling Canadian organizers to "liquidate" the strike before it should have been over. Ironically, this was an international union which should have been dedicated to women workers, often working in small-towns and "back country" regions. Moreover, as the Royal Commission assumed the limelight, the women strikers were again pushed to the sidelines as the discussion rarely addressed their gendered experience of workplace struggles and the law.

In the final analysis, the grumbling UAW members who insisted on 25 February 1966 that the mass picket should have continued, arrests or not, might have been articulating the only strategy that had even a remote possibility of keeping the women's jobs unionized. Once the battle was taken from the picket line into the court room, however important this challenge was, TWUA members' hopes of shutting down production and extracting some concession from the recalcitrant employer were gone. As union leader Jean Claude Parrott later commented on the limits of industrial legality, "if you meet with lawyers two or three times in a week, they are not going to tell you that you have to fight in the streets. They are going to tell you what the legal avenues are and so you get directed to that."[128]

If there were labour victories emerging from the Tilco affair, the revised Judicature Act could be seen as the key one. Indeed, Peterborough trade unionists clearly see this as their legacy of success, arguing that "ex partes were never used again."[129] Revisions to the Judicature Act, also passed in 1970, went beyond Rand's suggestions, abolishing *ex parte* injunctions entirely, making the sections on giving notice more detailed, making the right to appeal clear, and requiring proof of "material facts with viva voce evidence." An entirely new section was added requiring the court to ascertain if "reasonable efforts had been made to obtain police assistance, protection and action" before the injunction was sought, though this was limited only to labour disputes, which meant activities such as secondary picketing were precluded from this check on the court's authority.[130]

While the revisions removed some of the more egregious elements of the injunction process, employers continued to press for them — as they did in the Texpack strike involving a small-town, anti-union employer of textile workers only a year later. Injunctions thus remain a "substantive common law restriction on

[128]J.C. Parrott quoted in Leo Panitch and Donald Swartz, "Towards Permanent Exceptionalism," 155.

[129]PLC, Interviews with Peters, Rutherford, Woodbeck.

[130]Ontario, Statutes of Ontario 1970, chapter 91, An Act to amend the Judicature Act, 1041-3.

strike activity,"[131] and a critique of their inherent biases remains relevant to this day; indeed, new forms of the injunction are also being created to inhibit political demonstrations and mass protest.[132] Thomas Berger's forceful claim that injunctions are often used in a critical stage of a strike, skewing the contest in favour of the employer, also remains pertinent. So too is Bora Laskin's seminal nine-point discussion of 1937, which suggested that injunctions could place "the judiciary in the ranks of employers."

This latter notion is perhaps implicit in the contemporary writing of state scholars who argue that the law continues to exhibit an "essential identity" with the interests of capitalism, though not in any conspiratorial or instrumental sense. As Christopher Tomlins argues, despite divisions within capital, the varying institutional aims of state managers, or concerns for the "public interest" articulated by politicians and bureaucrats, the "overall bias" of the law is to meet the needs of capital, to reproduce the political-economic status quo.[133] While more recent theoretical trends have rejected such structural analyses for their supposed emphasis on the authoritative, controlling "hand of the state,"[134] there is still much to recommend in materialist-feminist analyses which explore the "mutual influence and conditioning" of material conditions, ideology, and discourses of race, gender, and sexuality on the creation of labour law.[135] Feminist political economy, with its attention to the structural configurations of capital, the contradictory and contested terrain of gender and class relations vis a vis the state, and the "multidimensionality of power, oppression and agency"[136] offers the most fertile ground for such explorations. The

[131]Eric Tucker and Judy Fudge, "Forging Responsible Unions," 81.

[132]Julia Lawn, "The John Doe Injunction in Mass Protest Cases," *University of Toronto Faculty of Law Review*, 56 (Winter 1998), 101-33. Lawn notes that labour injunctions were the "closest relative to modern John Doe anti-protest orders," 114.

[133]Christopher Tomlins, *The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960* (Cambridge1985), xiv.

[134]Nikolas Rose somewhat oversimplifies such work by saying scholars looked at state centralization and control and "discovered the hand of the state even when it appeared absent." Nikolas Rose, "Governmentality," in Mariana Valverde, ed., *New Forms of Governance: Theory, Practice, Research: Conference Proceedings* (Toronto 1999), 6. In contrast, others maintain that such work always explored contradiction and contestation in their studies of the state: Pat Armstrong and M. Patricia Connelly, "Introduction," to their edited *Feminism, Political Economy and the State* (Toronto 1999).

[135]Gillian Creese and Daiva Stasiulius, "Introduction: Intersections of Gender, Race, Class and Sexuality," *Studies in Political Economy*, 51 (Fall 1996), 6.

[136]Creese and Stasiulius, "Intersections of Gender, Race, Class, and Sexuality," 8. On the current emphasis on intersectionality in feminist political economy, see Leah Vosko, "The Pasts (and Futures) of Feminist Political Economy in Canada: Reviving the Debate," *Studies in Political Economy*, 68 (Summer 2002), 55-83. David Camfield's recent explanation of why feminism has not been integrated into political economy suggests that "human needs and struggles" were not present in such writing from the beginning, and that analyses placed

Tilco strike and the state's response were shaped within a context of transformative economic and social relations in the workplace and labour movement, but also by interconnected discourses of gender difference and entitlement, conflicting ideologies of labour reform and radicalism, and by the strategies of resistance adopted by women and men involved.

Initially a local skirmish over unionization, Tilco also reminds us that the "local" cannot be hived off as a deconstructed entity from the larger picture of state power and class interests as these bore decisively on the decision of the government to "make an example" of the injunction protestors. The ensuing courtroom battle over injunctions was two-sided: it symbolized workers' rejection of law as an instrument of employers' power yet the ideological effects of their *engagement in* this courtroom contest also operated on another level as a constraint on workers' ideas of "what was possible and desirable."[137] The law, as scholars in the Gramscian tradition have argued, is potentially a source of coercive regulation *and* a means of subtle persuasion in which the individual citizen comes to interpret "necessity and coercion as 'freedom'."[138] Consent to the idea of law's inherent "justice" is constructed at a subterranean level, through daily, lived practices and cultural forms, through the seductive appeal of the law's promise to fairness, and for labour activists, the promise of its utility in securing short-term gains to improve their difficult lives.

Ideological consent may also be fragile and fractured. This accounts for both workers and union leaders deeply ambivalent view of the state, their oscillating optimism and pessimism as they placed some hopes in legal redress, but then acknowledged that outcomes in court were disappointing. Despite the very different roles women strikers and the Tilco men played in this drama, they shared a class-based suspicion that, throughout this struggle, the law had not really been on their side. The reflex response of many workers, as well as union leaders, so often articulated in exasperated comments to Ivan Rand that "we no longer respect the law," indicates that the ideological hegemony of the law, at least its claims to offer justice, fairness, and "free" collective bargaining, was by no means complete.

Finally, even though the Tilco women would not have voiced a connection between feminism and their strike, their organizing reflected the strong sense of eco-

"objective structures opposite struggle and subjectivity." David Camfield, "Beyond Adding on Gender and Class: Revisiting Feminism and Marxism," *Studies in Political Economy*, 68 (Summer 2002), 37. Camfield's critique should perhaps acknowledge that the strength of feminist working-class *history* has been historians' attempts to address and integrate precisely these themes into scholarship, indicating the need for more meaningful dialogue with their work.

[137]William Forbath, *Law and the Shape of the American Labour Movement* (Cambridge 1991), 7.

[138]Antonio Gramsci, *Selections from Prison Notebooks*, Quintin Hoare and Geoffrey Smith, eds. and trans., (New York 1971), 242. On self governance, see also, 268.

nomic entitlement and militancy of working-class women in the post-war period, despite the structural barriers to unionization, and the mixed messages about gender difference, not only in the wider culture, but also within a labour movement still wedded to a male breadwinner ideal and an image of "girl" strikers. That image, tied up with notions of women's responsibility for domestic care, their "secondary" or transitory wage labour, their tenuous claim to "first tier" jobs, would be challenged over the next decade, by a persisting, residual tradition of working-class feminism as well as by emergent traditions of feminist, new-left and socialist organizing. While no labour women testified before Ivan Rand's commission, they certainly appeared before Florence Bird's Royal Commission on the Status of Women, also initiated in 1967. Here, UE and Canadian Union of Public Employees female leaders argued passionately for a new deal for women workers so that women like Lil Downer and her fellow strikers might create a future in which they would never have to rely on the wages and working conditions of a "Tilco" employer again.[139]

I want to thank Jim Naylor for overseeing the review process at Labour/Le Travail, *and also for his comments on the paper. Thanks also to the four anonymous reviewers for the journal and to Sean Purdy and Sandy Ignagni for their help with research.*

[139]CUPE's brief, for example, offered a thorough critique of the myth of the male breadwinner even within the labour movement. On the CUPE brief see Susan Crean, *Grace Hartman: A Woman for her Time* (Vancouver 1995). On the linking of working-class feminism to the women's movement, Meg Luxton, "Feminism as a Class Act: Working-class Feminism and the Women's Movement in Canada," *Labour/Le Travail*, 48 (Fall 2001), 135-58.

Eugene A. Forsey Prize in Canadian Labour and Working-Class History

Thanks to an anonymous donor, the Canadian Committee on Labour History (CCLH) is pleased to announce the sixth Eugene A. Forsey Prize competition. The CCLH, with the consent of the late Dr. Forsey's family, chose to name it in his honour because of his pioneering work in the field of Canadian labour history. Dr. Forsey, Research Director of the Canadian Congress of Labour and later the Canadian Labour Congress, also served on the committee which founded *Labour/Le Travail*.

The CCLH invites submissions for the seventh Forsey prize competition for graduate and undergraduate work on Canadian labour and working class history.

Prizes are awarded annually for the best undergraduate essay, or the equivalent, and for the best graduate thesis completed in the past three years. Separate committees, established by the executive of the CCLH, will award the prizes.

The committees, like *Labour/Le Travail* itself, intend to interpret widely the definition of Canadian labour and working-class history. Undergraduate essays may be nominated by course instructors, but nominators are limited to one essay per competition. Additionally, authors may submit their own work. Essays not written at a university or college may be considered for the undergraduate awards.

For the graduate prize, supervisors may nominate one thesis per competition or an author of a thesis may submit a copy. Submissions of both MA and PhD theses are welcome. Theses defended on or after 1 May 2001 are eligible for consideration in the initial competition.

The deadline for submissions is 1 June 2004. Prizes will be announced in the Fall 2004 issue of *Labour/Le Travail*. Four copies of essays and one copy of a thesis must be submitted for consideration to Forsey Prize, Canadian Committee on Labour History, Faculty of Arts Publications, FM 2005, Memorial University of Newfoundland, FM 2005, St. John's, NL A1C 5S7 CANADA.

2003 Forsey Prize Winners

Richard Rennie, "'And there's nothing goes wrong': Industry, Labour, and Health and Safety at the Fluorspar Mines, St. Lawrence, Newfoundland, 1933-1978," PhD thesis, Memorial University of Newfoundland (2001).

Brooke Pratt, "A Canadian Life on the Literary Left: The Legacy of Dorothy Livesay," Trent University.