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The Struggle for Rights at Work

The United Electrical Workers, Contract Enforcement, and the Limits of Grievance Arbitration at Canadian General Electric and Westinghouse Canada, 1940s to 1960s

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[Aller au sommaire du numéro](#)

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Résumé de l'article

Pendant des décennies, les syndicalistes canadiens ont exprimé leur frustration à l'égard du système d'arbitrage des griefs, mais cela tend à se limiter aux critiques sur la nature légaliste du processus, ainsi que sur les coûts et les retards liés à l'obtention d'un jugement. Il y a peu de discussions ou de débats sur la dénégation du droit de grève, qui est la caractéristique centrale du système. Il n'y a pas non plus beaucoup de discussions sur les méthodes d'application des contrats qui situent les stratégies juridiques dans des stratégies politiques plus larges pour utiliser efficacement le pouvoir des travailleurs, y compris le retrait du travail. Cette étude examine comment le United Electrical Workers (ue), un syndicat dirigé par la gauche, a défendu les droits des travailleurs chez Canadian General Electric (cge) et Westinghouse dans les premières années du nouveau régime juridique. Plus précisément, elle retrace les origines nord-américaines des systèmes d'arbitrage des griefs, esquisse le développement des politiques du personnel dans l'industrie électrique, passe en revue les difficultés rencontrées par le district canadien de l'ue pour établir des relations contractuelles et codifier les droits du travail dans ces deux entreprises, reconstruit les éléments de l'approche de l'ue à l'exécution des contrats et examine un certain nombre d'arrêts de travail à mi-contrat chez cge et Westinghouse entre 1946 et 1966 pour déterminer comment le syndicat, les travailleurs, les employeurs et les arbitres ont négocié l'interdiction des grèves de grief à mesure qu'elles s'adaptaient à la nouvelle législation et au nouveau libellé de la convention collective.

ARTICLE

The Struggle for Rights at Work: The United Electrical Workers, Contract Enforcement, and the Limits of Grievance Arbitration at Canadian General Electric and Westinghouse Canada, 1940s to 1960s

Jeffery Taylor

TRADE UNIONS AND THE LABOUR MOVEMENT exist primarily because of the quest for justice that workers bring to their workplaces. Revolutionary syndicalists may seek that justice through the seizure of the means of production and the creation of a cooperative commonwealth, while conservative craft unionists may attempt to control the market for their particular skill, but they are all motivated by a sense of what is just behaviour with respect to the use of their labour. Current industrial relations systems across the globe represent the various class compromises that workers and employers have made in their respective state structures regarding the degree of justice and fairness that will be allowed in factories, offices, and other places where labour is sold for wages and salaries.¹

A Canadian worker's quest for justice is influenced greatly by whether or not they are represented by a union. If they are not, the relevant federal or

1. On workers' notions of justice, see Charles F. Sabel, *Work and Politics: The Division of Labour in Industry* (London: Cambridge University Press, 1982), chap. 1. Roy Adams places the Canadian and United States industrial relations systems in a global context, in *Industrial Relations under Liberal Democracy: North America in Comparative Perspective* (Columbia: University of South Carolina Press, 1995).

provincial employment standards legislation provides a minimal floor of protection with respect to issues such as hours of work, overtime, and vacation. If they are represented by a union, however, they will be protected by a collective agreement specifying terms and conditions of employment, providing them with more substantial benefits and protections than they would enjoy under employment standards statutes. Indeed, depending on the militancy of their union and the negotiating skills of their leadership, the collective agreement may offer protections and benefits that are substantially superior to those enjoyed by non-union workers in the same jurisdiction. Equally important, the unionized worker has access to a grievance and arbitration system through which they can assert their collective agreement rights. The internal grievance procedure allows them and their union representatives to make their case to successively higher levels of management and, if unsuccessful, to take the matter to third-party arbitration.²

The strength of the current Canadian system is that it does provide a measure of procedural and substantive fairness for unionized workers. In the areas of discipline and discharge, seniority and layoff, and wages, for example, which are the central elements of most collective agreements, a substantial body of arbitral jurisprudence has developed over the past 70 years to ensure that employers act in a fair and reasonable manner in exercising their managerial responsibilities. This strength is offset by a number of significant weaknesses, however. First, the early promise of grievance arbitration was that specialized administrative tribunals would provide a quick and relatively inexpensive route to workplace justice, yet it is not uncommon to have to wait six months to a year for an arbitration hearing and an additional number of months for a judgement. Furthermore, the process has been judicialized to the point where legal counsel are often employed by both sides to make their case to an arbitrator who normally has legal training as well. Second, while worker rights have been enhanced in a limited number of areas, managerial prerogative has been more firmly entrenched in the more fundamental areas of management “residual rights,” contracting out, and the generally recognized right of employers to manage their enterprises as they see fit. Third, and most importantly, strikes are illegal during the term of a collective agreement as a method of contract enforcement, seriously limiting the assertion of worker power. This means that union stewards and other activists tend to be preoccupied with representing members in the grievance procedure and participating in the preparation of legal briefs for arbitration rather than in broader mobilization strategies to enforce contracts and push them forward.³

2. For a survey of the Canadian industrial relations and employment standards systems, see Mark Thompson, Joseph B. Rose & Anthony E. Smith, *Beyond the Industrial Divide: Regional Dimensions of Industrial Relations* (Montréal and Kingston: McGill-Queen's University Press, 2003).

3. There is an extensive liberal legal and industrial relations literature in which the dominant

For decades trade unionists have expressed frustration with the grievance arbitration system, but this tends to be limited to criticisms of the perceived pro-employer records of most arbitrators, the legalistic nature of the process, and the costs and delays involved in getting a judgement.⁴ There is little discussion or debate about the denial of the right to strike, which is the central feature of the system. Trade union leaders justifiably criticize legislated limits on the right to strike at contract renewal, but there is a general silence with respect to the ban on midterm strikes. Nor is there much discussion about approaches to contract enforcement that situate legal strategies in broader political strategies to use worker power effectively, including the withdrawal of labour. More than 70 years after Privy Council Order 1003 (PC 1003), the distinction between contract renewal and contract enforcement – and the limiting of the right to strike to specified circumstances during the former – has seemingly been accepted by the Canadian labour movement.⁵

But if unions are to extend the frontiers of workplace justice, they must reflect critically on their experiences with grievance arbitration, including the statutorily enforced ban on strikes, and consider the various mechanisms available to them to enforce and enhance rights at work. With current considerations as a guide, what follows is an investigation of how the United Electrical Workers (UE), a left-led union known for its militancy, defended workers' rights at Canadian General Electric (CGE) and Westinghouse in the early years of the new legal regime. Specifically, I shall chart the North American origins of grievance arbitration systems, sketch the development of personnel policies in the electrical industry, survey the UE Canadian district's struggle to establish contractual relations and codify workplace rights at these two corporations, reconstruct the elements of UE's approach to contract enforcement, and review a number of mid-contract work stoppages at CGE and Westinghouse between 1946 and 1966 to determine how the union,

themes are an acceptance of labour arbitration and the system of which it is a part, a sense that grievance and arbitration procedures provide individual workers with significant legal remedies, and a view that the rule of law prevails in unionized workplaces. See, for example, A. W. R. Carrothers, *Labour Arbitration in Canada* (Toronto: Butterworths, 1961). Radical critics of this liberal tradition argue that grievance arbitration is really part of a new workplace hegemony in which collective grievances are individualized, the crucial components of managerial power are sustained, and union leaders and stewards become complicit in disciplining their own members. See, for example, John Stanton, *Labour Arbitrations: Boon or Bane for Unions?* (Vancouver: Butterworths, 1983); Larry Haiven, "Hegemony and the Workplace: The Role of Arbitration," in Larry Haiven, Stephen McBride & John Shields, eds., *Regulating Labour: The State, Neo-Conservatism and Industrial Relations* (Winnipeg: Society for Socialist Studies/Toronto: Garamond, 1990), 79–117.

4. See, for example, Stanton, *Labour Arbitrations*.

5. This has been modified somewhat in the case of mid-contract work stoppages by public-sector unions directed against governments for specifically political purposes. See British Columbia Teachers' Federation v British Columbia Public School Employers' Assn., 2009 BCCA39.

workers, employers, and arbitrators negotiated the ban on grievance strikes as they adjusted to new legislation and new collective agreement language.

The Origins of Grievance Arbitration

GRIEVANCE AND ARBITRATION structures are an integral part of the North American model of industrial relations. The components of this system are well known to specialists. In the United States, the Wagner Act of 1935 established the principles of plant-based certification of bargaining agents, compulsory employer bargaining with duly certified bargaining agents, unfair labour practices, good-faith bargaining, grievance procedures to deal with alleged contract violations, and the right to strike for contract renewal and contract enforcement. The Canadian variant contained the main features of the Wagner Act with two significant exceptions: conciliation procedures during contract renewal, which had been a feature of Canada's industrial relations legislation since 1907, were incorporated and compulsory arbitration replaced the right to strike while a collective agreement was in force.⁶

On the face of it, the denial of the right to strike during the term of a collective agreement seems to be a draconian amendment to the Wagner model. In practice, though, many American collective agreements contained arbitration provisions by 1944. The needle trades and hosiery industries pioneered the use of grievance arbitration in the pre-Wagner period, and the trendsetting auto industry followed this model as collective bargaining became established there in the late thirties and early forties. George Taylor, the hosiery industry's impartial umpire in the 1920s and 1930s, established many of the features of modern grievance arbitration, including dismissal for just cause, seniority in layoff and promotion, and the need for uninterrupted production (work now, grieve later). In the auto industry, meanwhile, the second contract between the United Autoworkers and General Motors, signed in 1940, contained language establishing a permanent umpire to resolve disputes at the last stage of the grievance procedure. This provision, which gave the union the legal tool to protect it from the consequences of rank-and-file work stoppages and

6. Canadian labour scholars have essentially two views on the origins of the modern industrial relations system during and immediately after World War II. One group sees the enactment of legally enforceable collective bargaining rights in federal and provincial labour legislation as a major achievement for Canadian workers and unions that provided them with a substantial new role in workplace governance. See, for example, Laurel Sefton McDowell, "The Formation of the Canadian Industrial Relations System during World War Two," *Labour/Le Travail* 3 (1978): 175–196. Another group argues that the new regime of "industrial legality" that resulted from the "postwar compromise" between labour and capital had a conservative effect on unions and workplaces and that, as a result of their new legal responsibilities, union leaders became complicit with employers in policing their members. See, for example, Peter McInnis, *Harnessing Labour Confrontation: Shaping the Postwar Settlement in Canada, 1943–1950* (Toronto: University of Toronto Press, 2002).

to solidify its role in the workplace, was the first such mechanism in heavy industry and served as a model for thousands of other contracts in a variety of sectors.⁷

It is not surprising, then, that the Canadian version of the Wagner model contained a provision for the binding arbitration of grievances, since it was an established part of industrial relations practice in the United States by 1944. Furthermore, grievance arbitration had been a feature of some Canadian collective agreements since at least 1920.⁸ Needle trades workers, in particular, like their counterparts in the United States, were early adopters of this method of dispute resolution.⁹

What is more surprising is the labour movement's silence on this matter when federal labour legislation was being drafted in the early 1940s. The no-strike pledge determined the tepid response of those left-led unions and others that ascribed to it. And those unions with social democratic leaderships seemed thankful to be receiving a degree of legal legitimacy. J. L. Cohen, PC 1003's severest labour critic, noted this provision in the legislation but seemed to accept it reluctantly. The labour movement did favour the extension of compulsory grievance arbitration to any matter arising during the term of a collective agreement (in addition to matters specified in the agreement), but employer representatives fiercely opposed this suggestion.¹⁰

In the industrial relations system established in the 1940s, then, workplace representation was channelled through bargaining agents certified by labour boards, employers were compelled to bargain with those agents, and strikes were prohibited except during precisely defined periods at contract renewal. The rules dictated that unionized workers used what economic strength they had to negotiate the best terms they could with employers; the enforcement of those terms was then left to the grievance and arbitration procedures. But

7. Nelson Lichtenstein, "Great Expectations: The Promise of Industrial Jurisprudence and Its Demise, 1930–1960," in Nelson Lichtenstein & Howell John Harris, eds., *Industrial Democracy in America: The Ambiguous Promise* (New York: Cambridge University Press, 1993), 117–133; Nelson Lichtenstein, *Walter Reuther: The Most Dangerous Man in Detroit* (Urbana and Chicago: University of Illinois Press, 1995), 144–153; David Brody, "Workplace Contractualism in Comparative Perspective," in Lichtenstein & Harris, eds., *Industrial Democracy*, 193–194.

8. Judy Fudge & Eric Tucker, *Labour Before the Law: The Regulation of Workers' Collective Action in Canada, 1900–1948* (Toronto: Oxford University Press, 2001), 118.

9. Mercedes Steedman, *Angels of the Workplace: Women and the Construction of Gender Relations in the Canadian Clothing Industry, 1890–1940* (Toronto: Oxford University Press, 1997), chap. 4.

10. Fudge & Tucker, *Labour Before the Law*, 265–280; Laurel Sefton McDowell, *Renegade Lawyer: The Life of J.L. Cohen* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2001), 145–149; "Report of Special Committee on P.C. 1003 and P.C. 9384 to the Executive Council of the Canadian Congress of Labour," n.d., p. 8, and J. L. Cohen, "P.C. 1003 and an Effective Wartime Labour Policy," n.d., p. 5, MG 30, A 94, vol. 36, folder 3065, Jacob Lawrence Cohen fonds (hereafter JLCF), LAC.

the details of how the system would work in practice were determined by the overall balance of class forces, the nature of specific industries, union philosophy and leadership, employer actions, arbitrators, arbitral jurisprudence, and shop-floor cultures and traditions.

The Electrical Industry and the Development of Corporate Personnel Policies

THE NORTH AMERICAN electrical industry was a characteristic product of the Second Industrial Revolution. Products were developed in research laboratories rather than by craftspeople, capital requirements were substantial, and a few large corporations dominated. Professional managers rather than owner-operators ran the firms and these individuals were often the proponents of more liberal personnel policies than their colleagues in smaller enterprises because of their need to manage and retain a large workforce. That workforce, in turn, consisted of a large number of semi-skilled employees.¹¹

The leading American firm was General Electric (GE), formed in 1892 as a result of the merger of two companies. Westinghouse, formed in 1886, was the other dominant player in the industry. All other companies were junior players.¹² CGE was established in 1892 and was under Canadian control from 1895 to 1923 before reverting to branch-plant status. CGE's main plant and headquarters were in Peterborough, Ontario, with other major plants in Toronto. Westinghouse, meanwhile, commenced its Canadian operations in Hamilton in 1896. CGE, Westinghouse, and Northern Electric of Montréal comprised the big three of the Canadian electrical industry in the twentieth century. Like GE and Westinghouse in the United States, these firms shared and exchanged patents, thereby dominating and controlling access to the market. With oligopoly and product standardization, the large firms provided price leadership, with smaller firms following the price changes initiated by the larger firms. Firms stressed service and performance rather than price to attract business. The absence of downward price pressure allowed a union to pursue an aggressive wage policy, but the domination of the industry by a few large companies allowed these firms to use their strength to exclude unions for many years.¹³

GE and Westinghouse managers in the United States were leading exponents of liberal corporatism. Responding to the working-class militancy of the World

11. Richard Edwards, *Contested Terrain: The Transformation of the Workplace in the Twentieth Century* (New York: Basic Books, 1979); David Montgomery, *The Fall of the House of Labor: The Workplace, the State, and American Labor Activism, 1865–1925* (New York: Cambridge University Press, 1987).

12. Ronald W. Schatz, *The Electrical Workers: A History of Labor at General Electric and Westinghouse, 1923–60* (Urbana and Chicago: University of Illinois Press, 1983), chap. 1.

13. Douglas Caldwell, "The United Electrical, Radio and Machine Workers, District Five, Canada, 1937–1956," MA thesis, University of Western Ontario, 1976, chap. 1.

War I period, these corporate leaders advocated interest-group representation and economic planning. During the 1920s both GE and Westinghouse fashioned personnel policies designed to reduce tensions between workers and management. As a result of studies that revealed that semi-skilled machine tenders – the largest group of workers in these companies – were the most likely to quit and the most expensive to replace, GE and Westinghouse created the new category of employment (later personnel) manager to establish policies to retain workers. These new human resources professionals devised systems for hiring, training, promotion, supervision, and layoff. The most significant innovation as part of this strategy was the introduction of seniority as a criterion for decisions about layoffs. This required that companies begin keeping employment records for workers in order to keep track of laid-off workers.¹⁴

Incentive pay schemes were also part of the new managerial strategies at GE, Westinghouse, and other early 20th-century corporations. Electrical corporations first began using incentive pay in the 1890s. Prior to that, the prevailing method of wage payment was straight pay by the hour or day or straight payment by the piece. Incentive pay differed from piece-rate systems in that under the former all workers received a relatively low minimum day rate regardless of the quantity of their output. Above the minimum rate was a standard rate, which was the rate the employer believed an average worker should be able to earn with normal work effort. Any output above the standard rate received extra compensation. In the Bedeaux system used by Westinghouse, this additional compensation was divided between the worker and management, on the assumption that management and foremen deserved some of the credit for increased output. By the 1920s up to 90 per cent of production workers at GE and Westinghouse in the United States were on incentive pay.¹⁵

Another feature of liberal corporatism was works councils or employee representation schemes.¹⁶ During the 1920s, GE and Westinghouse in the United States established works councils in which workers elected departmental, division, and plant-level representatives to meet with their managerial counterparts on a regular basis to provide input and to air grievances. Managers used these structures to learn about worker grievances before they caused work stoppages and to craft company policies. Multi-stage grievance procedures, with a senior executive as the final arbiter, were a feature of these

14. Schatz, *Electrical Workers*, chap. 1.

15. Schatz, *Electrical Workers*, 22–24.

16. Laurel Sefton McDowell, "Company Unionism in Canada, 1915–1948," in B. E. Kaufman & Daphne G. Taras, eds., *Non-union Employee Representation: History, Contemporary Practice, and Policy* (Armonk, New York: M. E. Sharpe, 2000), 96–120; Greg Patmore, "Employee Representation Plans in the United States, Canada, and Australia: An Employer Response to Workplace Democracy," *Labor: Studies in Working-Class History of the Americas* 3, 2 (Summer 2006): 43–60.

schemes.¹⁷ CGE and Westinghouse Canada followed these leads and initiated employee associations in the early 1940s to counter UE organizing drives.¹⁸

UE Organizing and Certification at CGE and Westinghouse

UE WAS FORMED IN 1936 in the United States from various unions that had been organizing in the industry since the early thirties. Some had been members of the Trade Union Unity League's Steel and Metal Workers Union, some were federally chartered American Federation of Labor locals, and others were independent organizations. All had been formed as a result of local organizing initiatives by groups of workers in various plants. Some of these were activists who had been involved in an earlier round of organizing in the post–World War I period and others were younger workers new to the labour movement.¹⁹

There was some scattered union activity in the Canadian electrical industry post–World War I. The International Brotherhood of Electrical Workers and the International Association of Machinists established locals at the CGE plants in Peterborough and Toronto, but the corporation successfully countered these efforts. The organizing that allowed UE to establish a base in the industry began in 1937 with the granting of charters for Local 504 at Westinghouse in Hamilton, Local 507 at CGE in Toronto, Local 510 at Phillips Electric in Brockville, and a fourth local in Toronto that did not survive. The first Canadian UE contract was at Phillips in Brockville, negotiated in 1937. At the UE international convention later that year, Canada was designated as District Five, with Clarence Jackson, who had organized Local 510, named international vice-president. Jackson would remain in this post until 1980.²⁰

While Local 504 at Westinghouse received its charter in 1937, it would take nearly ten years to establish the union, become certified, and negotiate an enduring contract. It took three organizing campaigns to achieve recognition. Alf Ready and a core of activists established a steward system, published a union newspaper, and distributed leaflets during 1937, but were unsuccessful in

17. Schatz, *Electrical Workers*, 22; Edwards, *Contested Terrain*, 105–107.

18. "Case Histories of Company Unions," n.d., MG 31, B 54, vol. 1, folder 51, Company Unions: Reports, c. 1943, Clarence S. Jackson fonds (hereafter, CJSF), LAC; Employee Management General Committee, Minutes of Meeting, 9 September 1942, MG 28, I 190, acc. 1996/0175, vol. 221, folder 4, CGE Peterborough Local 524, Negotiations, 1942–1943, United Electrical, Machine and Radio Workers of America fonds (hereafter UEF), LAC.

19. Ronald L. Filippelli & Mark D. McCulloch, *Cold War in the Working Class: The Rise and Decline of the United Electrical Workers* (Albany: State University of New York Press, 1995), chap. 1; Rosemary Feurer, *Radical Unionism in the Midwest, 1900–1950* (Urbana and Chicago: University of Illinois Press, 2006), 1–86; James Young, *Union Power: The United Electrical Workers in Erie, Pennsylvania* (New York: Monthly Review Press, 2017), chap. 1.

20. Caldwell, "The UE, District Five," chap. 2; Doug Smith, *Cold Warrior: C.S. Jackson and the United Electrical Workers* (St. John's: Canadian Committee on Labour History, 1997), 51–54.

forcing Westinghouse to negotiate with them. They were successful, however, in raising awareness about the incentive pay system, speed-ups, wage discrepancies, arbitrary application of the seniority system, and workplace sanitation. Their efforts resulted in employer concessions on some issues.²¹ Four years later, Ready and his comrades launched a second campaign. A majority of workers in the company's East Plant and a smaller number in the West Plant joined the local in the spring of 1941. Management responded by forming the Canadian Westinghouse Employees Association. Although workers in the East Plant voted to strike, the employer insisted that its company union was the proper bargaining agent and support crumbled. Westinghouse subsequently laid off most of the Local 504 executive and stewards.

Recognition and certification were finally achieved in 1944 as a result of the third organizing campaign, which had begun in early 1943 and concentrated on a demand for one week of paid vacation. It took a year to get a first contract, though, as the company resisted conciliation efforts as much as possible. The 1945 agreement contained the basic skeleton of a contract, but did not include any agreement on wages or improvements on other economic issues. It would take a strike in 1946, as part of the broader strike wave of that year, in order for Local 504 to reach agreement on wages, vacations, seniority, and other issues and to firmly establish its presence in the plant.²²

The UE Canadian district's primary target when it was established in 1937 was the flagship CGE plant in Peterborough. It would be nine years before recognition and certification were achieved, however. GE's brand of corporate paternalism was particularly effective in Peterborough and the broader labour relations climate in the city was not conducive to organizing in the later 1930s. But Local 524 was able to organize the CGE-managed war-production plant Genelco in 1941 because, according to Jackson, the workforce consisted of younger recruits who were not the traditional CGE workers infected by its welfare capitalist ideology. When faced with this organizing drive, however, the company established an employee representation plan, complete with a multi-stage grievance procedure, in an attempt to circumvent unionization. In its organizing in Peterborough and elsewhere, UE had to be especially attentive to the large number of female workers, who by the 1940s accounted for

21. *Union Light* (newspaper), March–December 1937, MG 31, B 54, vol. 22, folder 12, Local 504, Hamilton, Ont., CJSF, LAC.

22. "Memorandum: UE Relations with Canadian Westinghouse Company, Hamilton, April 1937 to October 1946," MG 31, B 54, vol. 3, folder 2, Canadian Westinghouse Company, Hamilton, Report on relations with UE, 1946–1947, CJSF, LAC; Alf Ready, *Organizing Westinghouse: Alf Ready's Story* (Hamilton: Labour Studies Program, McMaster University, 1979); Smith, *Cold Warrior*, 129–130, 174; Caldwell, "The UE, District Five," 36–39; Rob Kristofferson & Simon Orpana, *Showdown! Making Modern Unions* (Toronto: Between the Lines, 2016).

about a quarter to a third of the electrical workforce and had become a permanent feature of the industry.²³

UE had greater success in organizing CGE's Toronto operations. Activists in the Ward Street and Davenport Street plants established Local 507 in 1937 and were able to prosecute grievances and win some improvements in plant sanitation and working conditions, increasing membership in the two facilities to 85 per cent and 90 per cent, respectively. But layoffs in the 1938 recession reduced the local's power. By 1941, however, there was sufficient organization in the Toronto plants to stage a successful recognition strike, which resulted in a conciliated agreement between the company and the union.²⁴

Codifying Workplace Rights, 1941–48

By 1946 the UE had negotiated contracts with CGE and Westinghouse in Peterborough, Toronto, and Hamilton. And, in 1948, UE and CGE negotiated the first of their master contracts to cover all plants and locals in the CGE system. Locals 504, 507, and 524 were the largest and most important locals in the union and their agreements set the pattern for the rest of the union and the industry. Between the 1941 agreement with CGE in Toronto and the 1948 agreements with CGE and Westinghouse, UE had established the basic contract language that would govern relations between workers and management in the various plants of these two corporations.

As noted earlier, both Westinghouse and CGE had developed extensive personnel policies earlier in the century, and these served as the basis for the structure and content of the collective agreements that were negotiated with UE. CGE's policies, as published in 1938, contained language on wage rates, hours of work, overtime, working conditions, vacations, a grievance procedure, piece rates, transfers to lower- and higher-rated jobs, layoff and recall

23. Clarence Jackson, interview by Jim Turk, 22 August 1979, tape 1, pp. 22–23, MG 31, B 54, vol. 26, folder 21, Interview transcripts: Jackson/Jim Turk, tapes 1 and 2 (ed. Jackson), CJSE, LAC; "Case Histories of Company Unions," pp. 11–13, CJSE, LAC; "Organization Report to District Five Council, 20–21 September 1946," MG 31, B 54, vol. 13, folder 23, Minutes, District 5 Council and District 5 Executive Board, (2) 1946, CJSE, LAC; Joan Sangster, *Earning Respect: The Lives of Working Women in Small-Town Ontario, 1920–1960* (Toronto: University of Toronto Press, 1995), chap. 7; Smith, *Cold Warrior*, 131–134; Caldwell, "The UE, District Five," 25; Julie Guard, "Fair Play or Fair Pay: Gender Relations, Class Consciousness, and Union Solidarity in the Canadian UE," *Labour/Le Travail* 37 (Spring 1996): 151–152.

24. *Union Light*, 21 October 1937, CJSE, LAC; Clarence Jackson, interview by Jim Turk, 15 July 1980, tape 3, pp. 11–12, MG 31, B 54, vol. 26, folder 22, Interview transcripts: Jackson/Jim Turk, tape 3 (ed. Jackson), CJSE, LAC; Agreement with Local 507, August 1943, MG 31, B 54, vol. 1, folder 48, Canadian General Electric Company Limited, Davenport Works, CJSE, LAC; UERMA Local 507 vs. CGE Company Limited, Davenport Lansdowne Works and Ward Street Works – Report of Conciliation Board, 1941, MG 30, A 94, vol. 25, folder 2872, JLCE, LAC; Caldwell, "The UE, District Five," 26, 34–35.

procedures, and discrimination.²⁵ The 1941 agreement that Local 507 negotiated with CGE contained all of the elements that were in the pre-existing GE policy governing wages and working conditions in its shops. There was new language on job postings and brief language governing women or minors doing work previously done by men. An article was added providing for third-party adjudication of grievances. Beyond this incorporation of the pre-existing company policy and the negotiated changes to those provisions, the collective agreement contained language recognizing the employee bargaining agent, specifying that the employer would not support another employee organization in the plant, and governing the modification and termination of the agreement.²⁶

By 1948, Local 504 in Hamilton was entering its fourth contract with Westinghouse and all CGE workers were covered by one master collective agreement. The major differences between the 1941 CGE contract and the 1948 contracts were that the latter contained management rights and discharge articles and more detailed language governing overtime and shift bonuses, incentive pay, layoff and recall, the grievance procedure, and third-party dispute resolution. The presence of the management rights articles was the result of a broader employer strategy to limit contract language to the narrowest possible definitions of wages, hours, and working conditions, leaving management the greatest possible latitude to determine how workers behaved on the job. The more detailed language in the other areas, however, was the result of union efforts to regulate shop-floor relations. The discharge language, for example, declared that an employee had the right to grieve a perceived unjust discharge and specified that this "special grievance" could result either in confirming the dismissal or in reinstating the employee with full compensation. The layoff and recall articles, meanwhile, established seniority as the most important factor in determining how workforces were increased or decreased. And the incentive pay clauses defined the rates and the conditions under which they were set.²⁷

25. *The Spark*, 4 March 1938, pp. 5–6, MG 28, I 190, acc. 1996/0175, box 221, folder 1, CGE Co. Ltd, Local 507, Davenport Works, Negotiations, 1938, UEF, LAC.

26. UERMA Local 507 vs. CGE Company Limited, Davenport Lansdowne Works and Ward Street Works – Report by Conciliation Board, 1941, MG 30, A 94, vol. 25, folder 2872, JLCF, LAC; leaflets, collective agreements, notes, pamphlets, poem, 1939–1941, MG 31, B 54, vol. 1, folder 30, Organizing Activities, CJSF, LAC.

27. MG 28, I 190, acc. 1996/0175, vol. 221, folder 37, Union and Company Proposals and Correspondence re. Joint Negotiations, Renewal of Contract, 1948, UEF, LAC; vol. 117, folder C.W.C., Negotiations Local 504, Contract Negotiations, 1948, United Electrical Workers Local 504 fonds (hereafter UE504F), McMaster University Archives, Hamilton (hereafter MUA); Peter Warrian, "Labour Is Not a Commodity: A Study of the Rights of Labour in the Postwar Economy," PhD thesis, University of Waterloo, 1981, 144–148.

Enforcing Workplace Rights

AGREEING TO CONTRACT TERMS is only a small part of establishing formal workplace rights. It is also necessary to enforce those rights. UE's approach to contract enforcement was based on its encouragement of rank-and-file participation through the union's democratic structure, including extensive steward networks. This consisted of the aggressive pursuit of individual and policy grievances, a view that all grievances were part of a collective struggle, support for workers who engaged in work stoppages or other job actions in contravention of collective agreements, and an unevenly articulated postwar view that workers had the right to settle grievances with strike action.

UE was a formally democratic union from its locals to its executive offices. Its international constitution reflected the union's origins as a federation of fiercely independent locals in the United States by ensuring that local autonomy was respected and nurtured. Locals elected their own officers and staff, initiated and ended strikes, ratified contracts, wrote their own constitutions and bylaws, and set their own dues and initiation fees. Delegates to annual district conventions elected the four full-time salaried officers, who were paid no more than the highest-paid worker in the union. The annual district convention elected ten local presidents who, with the officers, constituted the district executive board. This board conducted district (Canadian) union business between conventions. There were also four district council meetings per year with delegates from each local. The district leadership encouraged delegate discussion in these venues, carefully observing democratic procedure lest it be accused of Communist domination and possible challenge. At the local level, executives were expected to meet weekly and to hold monthly membership meetings. In addition, locals sent delegates to the annual international convention, which elected the three international executive officers.²⁸

UE's steward system was really the heart of the union and a key feature of its approach to contract enforcement. Stewards were the link between each department in a plant and the local and district leadership. They kept the membership informed about events, participated in all aspects of the local's business, and handled member grievances in their area. They had also been an integral part of the union's organizing strategy. The first thing UE did when it began an organizing drive was to establish a stewards' network with representatives in as many departments of the plant as possible. Those stewards would promote the union among their fellow workers and would serve as local leaders in confronting management regarding grievances such as sanitation, facilities, and violations of company policies. In countering union drives,

28. Caldwell, "The UE, District Five," 124–133; James L. Turk, "Surviving the Cold War: A Study of the United Electrical Workers in Canada," n.d., pp. 18–20, MG 31, B 54, vol. 28, folder Turk, James L., "Surviving the Cold War: A Study of the United Electrical Workers in Canada, CISE, LAC; Filippelli & McColloch, *Cold War*, chap. 1; "Constitution and Bylaws of Local 504 UE," vol. 186, folder 504, Constitution, UE504F, MUA.

employers recognized the importance of stewards, often targeting them for retaliation as Westinghouse did in Hamilton in 1937 and 1941.²⁹

UE leadership supported and was part of the shop stewards' movement that existed for a short period in southern Ontario during 1941. Shop stewards' councils were established in Toronto and Oshawa in the early part of that year. Their purpose was to provide a venue for shop-floor activists in organized and unorganized shops to meet and share experiences. Initiated by the Steel Workers' Organizing Committee, which had left-wing leadership at the time, there were separate councils in Toronto for the steel and electrical industries and a general council in Oshawa with representatives from a variety of unions. While union leaders attended meetings of the councils, chairs and secretaries of the assemblies were elected from the general membership and agendas were established collectively. The council experiment came to an abrupt end when the Canadian Congress of Labour leadership accused the councils of dual unionism and ordered their disintegration.³⁰

Once a plant was organized, the steward's role was broadened or refocused. Stewards' councils were formalized in each local and these met, normally on a biweekly basis, to discuss grievances, broader union issues, and how best to build and expand union power in the shop. Reports on grievances would be heard and decisions made as to which grievances would proceed to a higher level. While ideal stewards continued to be organizers, group leaders, and the link between departmental memberships and the union, they acquired new duties under collective agreements as agents and advocates for members and non-members who presented grievances under formal grievance procedures (even before the introduction of the Rand formula, UE represented non-members in the grievance procedure). They also faced a new challenge once provisions for union dues checkoff were won in bargaining. Unions fought hard after initial recognition for union security provisions, including the automatic deduction of union dues by the employer from member wages. This had the effect, however, of potentially limiting a steward's contact with the membership. As UE activists recognized at the time, with the automatic checkoff the steward was not compelled to engage in conversation with each member in his or her department on a regular basis to collect union dues. Alternative

29. Jackson, interview by Turk, 15 July 1980, tape 3, pp. 4–5, CJSF, LAC; Clarence Jackson, interview by Jim Turk, 18–29 November 1980, tape 6, side 2, p. 11, MG 31, B 54, vol. 26, folder 29, Interview transcripts: Jackson/Jim Turk, tape 3 (ed. Jackson), CJSF, LAC; various issues of *Union Light*, March–December 1937, CJSF, LAC.

30. MG 31, B 54, vol. 1, folder 33, Toronto and District Shop Stewards Council: Correspondence, minutes, 1941, CJSF, LAC; Clarence Jackson, interview by Jim Turk, 22 August 1979, tapes 1 and 2, pp. 11–12, 17, MG 31, B 54, vol. 26, folder 21, Interview transcripts: Jackson/Jim Turk, tapes 1 and 2 (ed. Jackson), CJSF, LAC; Clarence Jackson, interview by Jim Turk, 29–30 November 1980, tape 8, side 2, pp. 4–5, MG 31, B 54, vol. 26, folder 25, Interview transcripts: Jackson/Jim Turk, tapes 8 and 9 (ed. Jackson), CJSF, LAC.

strategies were discussed to deal with this problem, including having the steward hand each member his or her dues stamp each month and take the opportunity to engage the member in a discussion of union matters and possible grievances or issues.³¹

UE contracts at CGE, Westinghouse, and other companies stipulated the number and departmental location of stewards in a shop. Each zone in a shop had a chief steward. UE strove to have one steward per 15 workers in order to build a strong rank-and-file movement on the shop floor, but there is no evidence that this ratio was ever reached. It did have a lower member-to-steward ratio than many other unions, though. Its CGE agreement in the 1950s, for example, provided for one steward for every 25 members. The agreements also specified the stewards' responsibilities, the limits of those responsibilities, and the conditions under which a steward could leave his or her work area on union business. As will be discussed later, whether or not stewards were union representatives under these contract provisions could become an important question in the case of work stoppages during the life of an agreement.³²

UE and other unions in the postwar period developed educational programs to build organizational capacity. Courses for stewards were the most important offerings at the weekend, weeklong, and summer schools that UE offered in the 1940s, in conjunction with the Workers' Educational Association, and later at its own facilities, including its summer retreat at Clearwater Lake. In contrast to some other unions, which focused exclusively on the grievance-handling role that stewards performed, UE stressed the ongoing organizational and activist roles stewards performed in addition to their formal contract responsibilities.³³

CGE and Westinghouse management constantly pushed the limits of the contracts, which resulted in numerous grievances, arbitrations, and work stoppages. In 1954, staff representative Bill Walsh reported that 140 grievances had been filed in Local 504 in a three-week period and that 25 cases in the local went to arbitration during the first six months of that year. The union was winning about 50 per cent of the cases it took to arbitration, though the cases that advanced to arbitration were a small proportion of grievances filed. Local 515 at the CGE Royce plant in Toronto reported in 1957 that 75 grievances per year were normal among its 450 members.

31. "Staff Meeting, 12 July 1943," MG 31, B 54, vol. 13, folder 9, Minutes: District 5 Council, Executive Board, and Staff meetings (2) 1943, CJSF, LAC; "Report of Secretary Harris to District Five Council, 24–25 July 1943," MG 31, B 54, vol. 13, folder 10, Minutes: District 5 Council, Executive Board, and Staff meetings (3) 1943, CJSF, LAC.

32. "Agreement between Canadian General Electric Company Limited and the United Electrical, Radio and Machine Workers of America," pp. 58–59, and "Davenport Local Supplement," MG 28, I 190, acc. 1996/0175, vol. 167, folder 7, CGE Toronto and Peterborough Locals, Agreement Signed March 27, 1953, UEF, LAC.

33. Jeffery Taylor, *Union Learning: Canadian Labour Education in the Twentieth Century* (Toronto: Thompson Educational, 2001), chaps. 2 and 3.

A survey of grievances in 1957 and 1958 at Local 524 in Peterborough revealed a similar pattern of activity, with the largest number of grievances dealing with incentive rates and seniority. Filed grievances numbered 287 in 1957 and 511 in 1958. Of the 511 filed in the latter year, 63 did not proceed to the first or foreman's stage, 57 were settled and 28 were dropped at the foreman's stage, 59 were settled and 98 were dropped at the manager's stage, 21 were settled and 102 were dropped at the president's stage, and 7 were won and 4 were lost at arbitration. The remaining 72 were awaiting disposition at various stages. The local concluded that 144 grievances had been settled satisfactorily and 232 had been settled unsatisfactorily.³⁴

UE considered all grievances to be of concern to its total membership and publicized the outcomes accordingly. Union newspapers such as the Toronto Joint Board's *Voice of the Worker* and the UE *Canadian News* contained regular reports on grievances from the various locals. Members who won incentive grievances or otherwise received a monetary payment were often photographed with cash in their hands. Members would be assembled for a photograph when a group won a victory on speed-up or some other issue that affected a number of workers. These features were always accompanied by a reminder that members should be vigilant in understanding the contract and taking action on any infractions, that a strong steward structure was necessary to ensure the contract was enforced, and that these successes were the result of UE's vigilant and militant stance in defence of its members.³⁵ The union also used front-gate leaflet campaigns to inform members about the general state of workplace relations as illustrated by the number and nature of grievances being filed and processed. A 1952 leaflet issued by the Toronto Joint Board noted that over 200 members in the Toronto CGE shops were involved in grievances touching on safety, discharge, rate-cutting, and other issues. Members were reminded that this was the day-to-day activity of the union and that "coasting between contracts costs you money."³⁶

UE was aggressive in pushing grievances to arbitration if necessary. Cases involving the union account for a substantial number of the awards reported in *Labour Arbitration Cases* – including its first reported case – from the

34. "To Area Representatives from C.S. Jackson, Summary Number 16, 9 June 1954," MG 31, B 54, vol. 5, folder 10, UE Area Representative reports and summaries (1), 1954–1955, CJSF, LAC; MG 31, B 54, vol. 11, folder 21, Meetings, C.S. Jackson's notes (2), c. 1946–1963, CJSF, LAC; "Breakdown of Grievances, 1957–1962," MG 28, I 90, acc. 1996/0175, vol. 168, folder 19, CGE Peterborough Works, Local 524, UEF, LAC.

35. *Voice of the Worker* 4, 27 (March 1955): 1, MG 28, I 90, acc. 1996/0175, vol. 169, folder 5, CGE Co. Ltd., Materials Issued by UE/GE Joint Board, Toronto, 1955, UEF, LAC; *Voice of the Worker* 6, 45 (April, 1957): 1, MG 28, I 90, acc. 1996/0175, vol. 169, folder 7, CGE Co. Ltd., Materials Issued by UE/GE Joint Board, Toronto, 1957, UEF, LAC.

36. "To UE Members," MG 28, I 90, acc. 1996/0175, vol. 169, folder 2, CGE Co. Ltd., Materials Issued by UE/GE Joint Board, Toronto, 1952, UEF, LAC.

publication's inception in 1948 through the 1950s, for example.³⁷ But UE recognized the limits and shortcomings of the system and its inherent biases. As early as 1952, in reaction to an award from Bora Laskin granting damages to CGE for alleged losses incurred in a work stoppage, the district officers reported to the district council that arbitrations were becoming a problem for unions because employers were increasingly inclined to force issues to arbitration rather than settle them at the grievance stage, recognizing that arbitration was a financial burden for most locals. Furthermore, most arbitrators in Ontario at the time were judges appointed by the province who were often more sympathetic to employers than to workers.³⁸

More importantly, after it had abandoned its wartime no-strike pledge, UE in Canada asserted the right of its members to strike or otherwise engage in work stoppages during the life of an agreement, regardless of the statutory and contract bans on midterm strikes. UE in the United States was not limited by a statutory prohibition on strike action during the life of a contract and, contrary to the practice of many other unions in that country, resisted employer pressure to insert arbitration provisions in its contracts. Its educational materials, which were modified and used in Canada, advised activists to retain the right to strike after the internal arbitration procedure was exhausted. It also suggested settling as many grievances as possible at the first stage and with collective resistance as necessary.³⁹

During the war, and after the collapse of the Hitler-Stalin Pact, UE was firmly committed to the no-strike pledge. The official line in 1943 was that "it is possible to secure rectification of the grievances of workers ... without having to resort to strike action."⁴⁰ One year later, district president Clarence Jackson proposed a continuation of the no-strike pledge in the postwar period, arguing that the strike weapon would not be necessary if full cooperation could be achieved between employers, government, and workers.⁴¹ By late 1945, however, the tone was shifting in the organization as employers fought back against union gains by, according to the UE leadership, provoking damaging strikes. While lamenting this development, UE district officers asserted labour's right to use all the tools available and, at the same time, cautioned

37. *Labour Arbitration Cases*, vols. 1–10 (Toronto: Central Ontario Industrial Relations Institute, 1948/1950–1960).

38. MG 28, I 190, vol. 1, folder 4, UE District Council 14th Annual Convention, Officers' Report, 1952, UEF, LAC.

39. "UE Class Outline No. 2, Collective Bargaining," MG 31, B 54, vol. 5, folder 18, UE Education Programme, 1947, CJSE, LAC.

40. "Main Report by C.S. Jackson to the Quarterly District Council Meeting, 31 January 1943," pp. 9–10, MG 31, B 54, vol. 13, folder 8, Minutes, District 5 Council, Executive Board, and Staff Meetings (1) 1943, CJSE, LAC.

41. "Minutes of District Five Council, 27–28 October 1944," p. 10, MG 31, B 54, vol. 13, folder 15, Minutes, District 5 Council and Executive Board (3) 1944, CJSE, LAC.

against the use of unauthorized wildcat strikes because “nothing weakens a union more.”⁴²

By the 1950s the official UE position was that workers should have the right to strike during the life of an agreement. A district council resolution passed in 1954 called for an amendment to Ontario’s labour legislation guaranteeing “the right of the union to process grievances through all stages under the contract and then be free to choose arbitration or to exercise the right to strike.” It was claimed that workers had surrendered the right to strike as a wartime measure, but had not regained it in the postwar period. Furthermore, the experience most workers had with arbitration was less than satisfying. Even then, it was taking six months to a year to move a grievance through arbitration to the issuing of an award. If the worker won, which was increasingly unlikely given that judges were chairing most arbitration boards, the only penalty the employer faced was the prospect of paying what it should have paid in the first place, while the worker had to wait this long period of time for what was rightfully theirs and the union had to pay a significant amount of money to fight the case.⁴³

This refrain continued through the late 1950s and into the 1960s. Discussion at a 1958 district council meeting resulted in a further motion demanding the right to strike to settle grievances. And four years later, in its brief to an Ontario government review of labour arbitration, UE reasserted its position regarding the right to strike to settle matters arising during the life of an agreement. The brief repeated earlier arguments about the origins of the provision during the wartime no-strike pledge and the difficulties workers faced in waiting long periods for awards. It emphasized the unequal relations in the arbitration process, noting that “at worst, the employer faces direction from an arbitration board to do what he should have done in the first place.” Furthermore, this brief made the additional argument that compulsory no-strike arbitration did not deliver on its original promise to promote industrial peace. Rather, this provision helped “establish the background for more protracted [contract renewal] strikes, with the strike issues sometimes becoming beclouded by the bitterness resulting from mid-contract injustices.”⁴⁴

42. “Officer’s Annual Report, District Five Council, 18–19 October 1945,” p. 16, MG 31, B 54, vol. 13, folder 21, Minutes, District 5 Council and Executive Board (4) 1945, CJSF, LAC.

43. “Conciliation, Arbitration and the Right to Strike,” *Voice of the Worker* 3, 25 (October/November 1954): 4, MG 28, I 190, acc. 1996/0175, vol. 169, folder 4, CGE Co. Ltd., Materials Issued by Toronto Joint Board, UE-GE Locals, 1954, UEF, LAC.

44. “Union Brief of Arbitration,” UE *Canadian News*, 1 October 1962, p. 2, MG 28, I 190, vol. 6, UEF, LAC.

Work Stoppages and the Legal Limits of Worker Power

AS THE ARBITRATION SYSTEM was becoming established during the 1950s, then, UE's formal position was that workers should be able to retain their right to strike at all times, including to settle grievances. Jackson, in later recollections, maintained that UE always supported workers' job actions and in fact encouraged them:

We counseled them at a certain point that if they keep it up too long or go beyond a certain point that they're in unknown ground. We had to warn them more often than we liked about illegal strike legislation and what could happen. I don't doubt that that had a bit of a dampening effect on some militancy on given occasions. That was a fact of life and it wasn't that we were afraid of endangering the union, although that always had to be a factor. But very few occasions have we called the workers back from a shop action. In fact we've constantly urged them to take it. Our position has been that you're not settling grievances by procedure, you're settling them when the boss knows he's going to have production stopped if he does not settle.⁴⁵

This position notwithstanding, most workplace disputes that arose were handled through the formal grievance and arbitration procedures. In the era of industrial legality, grievance arbitration was the primary field in which workers skirmished with employers about work intensification, wage rates, supplementary compensation, and access and rights to jobs. Work stoppages were infrequent but significant events, however. Grievances arising from work stoppages were a small proportion of overall formal disputes, but they are useful barometers of worker frustrations, union and employer tactics in using the system, and the ultimate limits of the system.

Work stoppages ranged from a worker downing tools for an hour or two to whole departments walking out for days or weeks. There are no aggregate statistics on midterm work stoppages for CGE and Westinghouse. The sources consulted reveal ten incidents at CGE between 1946 and about 1965, with all of these occurring between 1946 and 1957. At Local 504 in Westinghouse there were nine incidents between 1944 and 1966, with all occurring between 1953 and 1966. This undoubtedly underrepresents the extent of work stoppages in these workplaces. However, there are only ten arbitration awards dealing with work stoppages at the two firms between 1946 and 1966, as reported in *Labour Arbitration Cases* and the archival sources. This means that there were relatively few work stoppages compared to other incidents that resulted in arbitrations, that employers took formal action on a small percentage of work stoppages, or, indeed, that there were few midterm work stoppages in this period.

A range of issues sparked the nineteen incidents for which records exist, including the role and rights of stewards, time studies and the incentive pay

45. Clarence Jackson, interview by Jim Turk, 16 January 1981, tape 14, side 2, p. 15, MG 31, B 54, vol. 27, folder 3, Interview transcripts: Jackson/Jim Turk, tapes 14 and 15 (ed. Jackson), CJSF, LAC.

system, suspensions, the application of seniority provisions, delays in processing grievances, scab work from another plant, and a union-ordered overtime ban. Women were the sole participants in two of the nineteen incidents, both men and women were involved in five incidents, men were the sole participants in seven of them, and the gender participation in the remaining five is unclear. Expressed in percentages, women participated in 37 per cent to 50 per cent of the incidents, while men participated in 63 per cent to 89 per cent of them. To provide context, in 1957 women constituted about 25 per cent of the workforce in UE-organized workplaces that employed women.⁴⁶

Most of the arbitration awards regarding work stoppages dealt in some form with the question of whether or not the union initiated or sanctioned the stoppages. In addition, some of the awards explored the specific question of the status of stewards within the union and the workplace. The awards raise the following questions, among others: When was the union responsible for stoppages? Did the leadership have to explicitly initiate or sanction them in order to be responsible? If they did not initiate them, were they responsible for them in any event, and particularly when they became aware of them? A steward might be involved in a work stoppage either as a leader or a participant, but were they acting as an agent of the union in those cases? Was it a valid defence for a steward to claim that they believed they had union sanction in the case of an illegal work stoppage? Should there be any leniency for a steward who joined a work stoppage and attempted to have the workers return to work? The evidence, testimony, conclusions, and dissents in the awards allow us to probe, to the degree possible, the veracity of UE's broader statements supporting mid-contract work stoppages, the role that UE stewards – ostensibly the heart of the union – played in these incidents, employer responses to real and perceived mid-contract work stoppages, how arbitrators responded to the incidents, and how union appointees to arbitration boards crafted dissents that attempted to resolve the contradictions between the law and worker/union actions.

In the first case to be considered, conflicts over price-cutting on incentive rates at the CGE Davenport works in September of 1949 resulted in the suspension of Local 507's chief steward, a subsequent three-day walkout, and a determination that the union leadership did not do enough to force its members back to work, regardless of its role in the stoppage. Most workers in the plant left work on the first day of the walkout, rotating strikes marked the second day, and the workers returned to their jobs at noon on the third day. The union's position was that the workers had walked out spontaneously in response to the steward's suspension and because of frustration over the price-cutting. Evidence adduced at the hearing showed that the union had made various efforts during the three days to encourage the workers to return

46. "Women under District Five Contracts," MG 28, I 190, vol. 1, folder 10, UE District 5 Conference on Problems of Working Women, 28–29 September 1957, UEF, LAC.

to work, including a membership meeting between the first and second day of the walkout at which a resolution was passed to return to work. However, in the majority opinion of the board chaired by Laskin, Canada's foremost champion at the time of the new workplace rule of law, the union did not fulfill its required obligations to force its members back to work. In the view of Laskin and the employer representative on the board, the union's agreement in the collective agreement "that there shall be no slowdown, strike or other stoppage of or interference with work" meant that the union had a positive obligation to do everything within its power to ensure that its members returned to and stayed on the job. It was not acceptable, in their view, for the union leadership to claim that the workers were acting spontaneously and that the union officers could not control them. In legal terms, Laskin and his colleague asserted, the leadership and the members were one and the same. Therefore, there should have been "prompt" attempts to get workers back in the plant, including, if necessary, disciplinary measures against individual members. For Laskin, the right of union certification involved "in the first place exertion and control over its members."⁴⁷

In another case, the union leadership had to delicately balance its legal obligations with its political responsibility to support its members and the members of another local. Westinghouse established a new plant in London in 1957. UE organized it and attempted without success to negotiate a master contract with Westinghouse covering all of its plants.⁴⁸ A new collective agreement for the Hamilton works took effect on 9 March 1959. On 3 March 1959 the workers at the London plant went on strike to support their negotiating team's efforts to secure a new agreement. Soon after the strike started in London, Westinghouse shifted work on transformers for circuit breakers from London to Hamilton.

The Local 504 executive learned on 19 or 20 March that components were being brought from London to Hamilton for work, was told by the London local that the work was insignificant, relayed the information from London to the Local 504 stewards, and advised those members working on the components (four to five on a rotating basis) to complete their assigned tasks. Since the London strike commenced, however, Local 504 had been expressing support for the striking London workers and soliciting financial contributions from its members. A meeting was held on 25 March between representatives of the union and the company at which the union representatives informed the company that they were aware that work from the London plant was

47. *Labour Arbitration Cases*, vol. 2 (Toronto: Central Ontario Industrial Relations Institute, 1950/51): 609, 611. For a general assessment of Laskin's arbitral jurisprudence, see Philip Girard, *Bora Laskin: Bringing Law to Life* (Toronto: University of Toronto Press for the Osgoode Society for Canadian Legal History, 2005), chap. 10.

48. "Organizational Report," pp. 9–10, MG 28, I 190, vol. 1, folder 10, UE National Council 22nd Annual Convention, 29 October–2 November 1958, UEF, LAC.

being done in Hamilton. They had kept this information out of their bulletins, however, in order to first discuss the matter with the company, noting that the membership would walk out if they knew this work was being performed in the plant. The company representatives replied that the collective agreement did not place any restrictions on bringing in work from elsewhere and reminded the union representatives of the agreement's no-strike provision. The union representatives, in turn, pointed out that asking the local's membership to do the London work was the same as asking them to cross a picket line.

The company posted a notice throughout the three plants of the Westinghouse works later on 25 March reminding employees of their responsibilities under the *Labour Relations Act* and the collective agreement to not engage in any illegal work stoppages, slowdowns, or other interference with work. It emphasized that the official representatives of the union had a special responsibility in applying the provisions of the Act and the collective agreement. Local 504, meanwhile, issued a bulletin to its members on 31 March in which it made reference to "stories" of work from the struck London plant being done in Hamilton and suggested that such "antics" would not improve employee-employer relations in either the London or Hamilton plants. It also reported that the employer, at the 25 March meeting, had reminded the union of its responsibilities under the collective agreement to do work as directed, regardless of the circumstances, which the union characterized in the bulletin as giving a "legal gloss to a form of strikebreaking."

On 2 April an employee named Pat Scullion refused to do "scab work" on London-sourced components, which had already been worked on by a half dozen other employees. Scullion immediately claimed illness and left the workplace. Frank Krouse, the local's business agent, attempted to have the company assign the work to someone other than Scullion to avoid a conflict. When Scullion returned to work on 13 April, however, he was again assigned work on London-sourced components; again he refused the work, and he was given a two-day suspension. He also indicated that Fred Hannabus, chief steward at the Beach Road plant, had advised him to do the work. Hannabus was confronted on 14 April by an angry group of members who were upset with Scullion's treatment. The next day, on 15 April, 2,500 of 3,700 female and male employees represented by Local 504 engaged in work stoppages.

The first stoppage began at 9 a.m. with employees in one section of plant three leaving their work areas to attend a meeting. When General Foreman Marshall encountered Steward Boyce circulating among employees at 9 a.m., Marshall asked Boyce what he was doing. Boyce replied that they were having a meeting to "get the London deal straightened out." Marshall said they should either return to work or punch out as this was an illegal work stoppage. Boyce punched out, followed by a group of female employees, and they all proceeded to the meeting. In another section of plant three, General Foreman Hamilton told Chief Steward Hannabus that it was Hannabus' responsibility to advise employees to return to work. Hannabus' reply, according to Hamilton, was

that the workers had gathered to have the “scab work” on the London components stopped, whereas Hannabus testified that he had told Scullion and others to work on the components and that he attempted to keep his members on the job on the morning of 15 April.

The stoppages started at about 10 a.m. in plant one. Assistant Superintendent Kennedy encountered Local 504 Vice-President Roberson in a group of employees and asked him what was happening. Roberson replied that “if they can clear up the London matter this can be settled.” Another supervisor asked a steward to bring the employees back to work, with the steward replying, “I cannot do that now.” Other supervisors issued similar instructions to other stewards and were told by the stewards, “That’s your job, not mine.”

Stoppages also commenced in plant two at about 10 a.m. Foreman Walker noticed Chief Steward Speers speaking to a group of workers and referring to the Scullion suspension. Speers told Walker that his group would not go back to work until the Beach Road suspensions were lifted and that “we are not going to sit on our ass and watch our people at Beach Road do scab work.” Steward Loucks also led 143 of her 180 members in the electronics division off the job. In another department, employees who stopped work were referred to the 25 March company notice, to which Steward Lewis responded, in front of a group of workers, “That letter is all bluff. The Union says it is not illegal for us to go home at noon. It is not a work stoppage. Do they think a piece of paper is going to stop us?”

The company wrote by telegram to Local 504 at 4 p.m. on 15 April asking the local to fulfill its legal obligations by ensuring there be no further interference with work. The union responded later that evening to indicate that it was making every effort to advise all its members to report for their regular shifts, while also taking the opportunity to suggest that the company’s actions were highly provocative. Work continued on the London components the following day, and the London strike was settled a week later.

Westinghouse responded by launching a grievance against the union for violating the no-strike provision of the collective agreement and by disciplining eleven employees, including union representatives, with written warnings or suspensions ranging from two to ten days. Furthermore, the company applied additional discipline to Stan Roberson, the union vice-president, and to Hannabus, chief steward of the Beach Road plant. It appears that the eleven accepted their discipline without grieving. The union denied the company grievance, however, and it proceeded to arbitration. In addition, Roberson and Hannabus grieved their additional discipline to arbitration.

The majority opinion of the board with respect to the company grievance was that the union had violated the no-strike provision of the agreement, which stated that during the life of the collective agreement “the Union agrees that there shall be no slowdown, strike, or other work stoppage or interference with work.” Judge Harold Fuller, chair of the board, and Mr. R. V. Hicks, the company’s nominee, provided the following reasons in support of their

decision. First, the union had been mobilizing as much support as possible for the London strikers in the weeks leading up to the work stoppage; second, the sole purpose of the 25 March meeting was to protest the presence of the London components in Hamilton and to have that work stopped, even though the union considered the work to be insignificant; and, third, the union executive made no effort in its public communications about work on the London components to indicate its view that the work should be done, but rather, attacked the company for its actions in London and for asking its members to do “scab work” in an atmosphere that they knew to be volatile. Furthermore, the evidence was clear that stewards in the plants took an active part in the stoppages, including encouraging their members to attend unauthorized meetings and speaking at meetings. It was inconceivable, the majority of the board concluded, that these were spontaneous work stoppages that had not been planned and premeditated. Fuller and Hicks refused to grant damages, however, mainly because the company would not allow its accountant to provide the detailed financial information the board members required in order to make a determination.

Charles Dubin, the union nominee, concurred with the majority that the union had violated the agreement, although his reasoning in his minority report was somewhat different. Dubin was of the view that the company had not proved that the union initiated the work stoppages. He noted that union members with union approval performed work on the London components prior to and after the Scullion incident, and that if the company had not insisted on Scullion working on the components, there would have been no work stoppages on 15 April. He concluded that the union executive behaved responsibly in the face of a difficult situation in which the membership was upset by what transpired with respect to the work on the London components and the Scullion suspension specifically. Dubin felt that once the stoppages commenced, however, the union violated the contract in that a number of stewards supported the actions of those employees who participated in the stoppages.⁴⁹

In another case at the Hamilton Westinghouse plant, in January 1966, workers and the union responded to a speed-up by refusing to work overtime.⁵⁰ The workers in one department had been suffering from work intensification

49. “Award of Board of Arbitration in the Matter of a Dispute between Canadian Westinghouse Company Limited ... and United Electrical, Radio and Machine Workers of America, and Its Local 504,” pp. 4, 5, 6, 7, 8, 9, 10, 11, vol. 215, folder W, Grievance #2 dated 17 April 1959 re. 15 April 1959, UE504F, MUA.

50. The mid-sixties also witnessed a number of contract-renewal wildcat strikes across the country. See Peter McInnis, “Hothead Troubles: Sixties-Era Wildcat Strikes in Canada,” in Lara Campbell, Dominique Clement & Gregory S. Kealey, eds., *Debating Dissent: Canada and the 1960s* (Toronto: University of Toronto Press, 2012), 155–170; Bryan D. Palmer, *Canada’s 1960s: The Ironies of Identity in a Rebellious Era* (Toronto: University of Toronto Press, 2009), chap. 7.

since the previous summer. Sixty grievances were filed between August 1965 and January 1966. As the situation reached a crisis point at the beginning of the new year, the stewards' council debated calling a full plant shutdown, but instead decided on a total overtime ban. The Local 504 membership was informed on Friday, 7 January, by leaflets that the ban was in effect for that weekend. The employer immediately notified the union that it considered the ban to be an illegal strike. On Tuesday of the following week the union announced that no overtime had been performed over the weekend, that the company had felt the pressure of the members' solidarity, and that the stewards' council had decided to suspend the ban "for the present." The company, on the same day, sent a letter to all hourly employees in the three Hamilton plants alleging that the union's 7 January leaflet announcing the overtime ban was an attempt to call an illegal strike, that individual employees who refused to work overtime were subject to discipline, and that it had decided "with restraint" not to discipline individual employees. The following day the company launched a grievance against the union, charging that it had engaged in and counselled an illegal work stoppage in calling the overtime ban and claiming damages and reimbursement for all expenses that resulted from it.

In its award, the board chair and the employer representative concluded that the overtime ban constituted an illegal strike. While conceding that a strike is normally a group refusal to work, they maintained "that is a too narrow concept of the term." To support their conclusion, they cited the relevant language in the *Labour Relations Act*, where strike is defined as "a cessation of work, a refusal to work or to continue to work by employees in combination or in concert ... or a slowdown or other concerted activity ... designed to limit or restrict output," and a 1956 case involving the Canadian Textile Council. They also referred to the collective agreement language governing overtime, noting that employees had a contractual obligation to accept overtime unless they had "reasonable grounds" to decline to perform such work and that they were "expected to cooperate" with management. Clearly, according to the majority group on the arbitration board, the employees did not cooperate with management in the performance of overtime, as they were expected to do, nor was their collective refusal to accept overtime reasonable, because the union ban violated the no-strike article of the collective agreement. Even if it had been determined that a contractual obligation to perform overtime did not exist, the union would still be in violation of the agreement, they concluded, because it had counselled an overtime ban notwithstanding the no-strike article. Laurence Arnold, the union nominee on the arbitration board, dissented from the majority without reasons.⁵¹

51. "In the Matter of an Arbitration Dispute between Canadian Westinghouse Company Limited and United Electrical, Radio and Machine Workers of America, Local 504," pp. 6, 7, 8, vol. 215, folder Co. Grievance Re. Dept 722, UE504F, MUA.

While it was generally understood that the union was liable if the union local's leadership sanctioned or was otherwise involved in an illegal work stoppage, the status and role of stewards was not so clear. At the Peterborough CGE plant in 1946, for example, a steward grieved his dismissal for instigating an unauthorized work stoppage. According to the unanimous award by a three-person board chaired by Jacob Finkelman, rumours of a stoppage in the wire department were circulating prior to the incident and the union executive issued instructions to the stewards in the department that a shutdown was forbidden. Allan Barnes, the dismissed steward, testified that he believed the action had union sanction, and the board members determined, on the basis of union and company testimony, that Barnes ordered the shutdown. They concluded, however, that he honestly believed he had union authorization for his action, although there was no evidence to support it. In upholding the dismissal, the board members censured the supervisors in the wire department for not acting on the rumours of a possible shutdown, not intervening with the stewards, and not bringing the matter to the attention of their superiors. If they had, it was argued, it was probable that the shutdown would have been averted. The board members also recommended that Barnes be reinstated, asserting that "adjustment to the conditions which obtain under a collective bargaining relationship involved a long process of education and many errors will be committed before harmonious relations are firmly established."⁵²

In another CGE case, at its Guelph plant in 1957, the company filed a grievance against the union to establish whether or not stewards were union representatives. The question arose as the result of the suspension of a steward in March of that year for his refusal to perform work assigned to him. Robert Thompson, the steward in question, refused the work in the context of a broader dispute over the timing of a job. According to Article 25 of the 1955–60 master agreement between CGE and UE, "the union agrees that neither it nor its representatives will cause or sanction a slowdown, strike, or other stoppage of or interference with work." The parties had agreed to this language in the round of bargaining immediately preceding the incident in question. The previous agreement (1954–55) stated "that there shall be no slowdown, strike or other stoppage of or interference with work." The new language was an apparent attempt on the local executive's part to eliminate any legal responsibility on the union's part for the actions of the broader membership by limiting the

52. *Labour Arbitration Cases*, vol. 1 (Toronto: Central Ontario Industrial Relations Institute, 1948/1950), 18, 19. The Central Ontario Industrial Relations Institute was an employer group formed to help companies deal with unions in the post-PC 1003 environment. In a footnote to this case, the editors maintained that it would have been "more appropriate if the arbitrators had censured the Union officials, e.g., the chief steward, for not calling upon higher officials of the Union to prevent the stoppage of work. However, it may be that such 'wrist slapping' as the arbitrators indulged in in this case is the price to be paid for securing a unanimous report from a three-man Board of Arbitration" (p. 19).

union's liability in cases of unauthorized work stoppages to the union and its agents.

UE claimed, first, that Thompson had acted as an individual employee when he refused work, and not as a representative of the union as understood in the collective agreement. Second, the union argued that the company had exercised its right to discipline Thompson as an individual employee by suspending him, and could not hold the individual and the union responsible for the same violation by also filing a grievance against the union; the company could have chosen to file a grievance against the union rather than suspend Thompson, but it chose not to do so, and had therefore exhausted its available remedies. And, third, it asserted that, in any event, stewards were not representatives of the union under the collective agreement, that the term "representatives" in Article 25 was limited to those officers of the union local elected by the full membership, and that this interpretation was clearly understood and accepted by company representatives during negotiations.

CGE maintained that the union was required by the collective agreement to provide it with a list of "Union Offices, Grievance Committeemen, and Stewards authorized to represent the Union," and that the list provided by the union to the company contained, among others, the names of the chief steward, the secretary of the stewards' council, and the stewards for the various units. The company reasonably assumed, it claimed, that the names and positions provided by the union were indeed representatives of the union as contemplated in Article 25 of the collective agreement, and that it was the union's responsibility to establish a narrower interpretation of the meaning of "representative" for the arbitration board if that was its understanding.

Eric Cross, the board chair, and J. W. Healey, the employer representative on the board, allowed the grievance. They accepted the employer position that the union considered stewards to be representatives of the union when they submitted their names to the company as required by the collective agreement. If the union's intent in bargaining was the restricted meaning it was now advancing, Cross and Healey wondered, why did it not use the phrase "neither the Union nor its officers" rather than "neither the Union nor its representatives" in Article 25? Furthermore, they noted that stewards are chosen by the union to assist members in presenting grievances and the collective agreement recognizes that stewards are paid while they are processing grievance with management representatives.

In dissent, Edwin Goodman, the union representative, argued that Article 25 was meant to apply only to those union officials who had general authority over the whole local and not to encompass those whose authority was limited to certain sections of the plant. The parties intended, he claimed, to place a very limited authority on stewards to process grievances and it was never contemplated that they would act as representatives in the fullest sense of the word. He continued that, contrary to the company's claim that it was "entitled to assume" that stewards were authorized to represent the union for

all purposes of the agreement when the union supplied the stewards' names to it, the lists clearly indicated that an individual steward's authority was limited to his or her section and did not extend beyond it. Hence, stewards could not and should not be presumed to exercise the kind of general union authority that he maintained was contemplated by Article 25. As a result, he concluded, the company grievance should be disallowed.⁵³

The status of stewards was also an issue in a dispute at Westinghouse the following year, and in this case, the chief steward's role in encouraging members to return work was also probed. An illegal work stoppage occurred at about 9 a.m. on the morning of 15 January 1958 in plant number three in the Hamilton works. The employees were told by their supervisors either to go back to work or to punch out and leave. They chose the latter. Ed MacDonald, the chief steward for the area, was suspended for participating in this work stoppage, and he grieved his suspension. MacDonald had slipped in the parking lot that morning, had gone to the first aid station with permission sometime prior to 9 a.m., and returned to his work area no earlier than 9:10 a.m. to discover 15 to 20 employees still in the process of leaving to join another 160 or so who had already left to go to the union hall. Upon his return, MacDonald had a conversation with Mr. Kerr, the superintendent, in which each asked the other why the employees had chosen to stop work and leave their stations. Kerr, according to MacDonald, also said that he hoped MacDonald could get the employees to return to work. Kerr denied making this statement. MacDonald then punched out, without first asking permission from his supervisor, and went to the union hall to join his fellow workers.

The arbitration board established to consider MacDonald's grievance, with the employer representative dissenting, determined that he had not participated in an illegal work stoppage when it occurred on the shop floor since he was absent from the workplace at that time. But did he join the work stoppage when he punched out without permission and went to join his colleagues? The board concluded that, strictly speaking, he should have obtained permission to punch out when he did, but that, in the circumstances, his actions were justified. Kerr, the superintendent, did say to MacDonald that he hoped he would get the employees back to work, it determined, and that if he had asked permission to leave, and this was known by his fellow union members, it may have had a negative effect on his ability to persuade them to return to the workplace. The only discipline that could reasonably be applied, according to the board, would have been a reprimand for punching out without permission. The discipline that was applied, however, was a two-day suspension for

53. Dubin to Jackson, Re. Canadian General Electric – Arbitration – Grievance No. 2-57, p. 2, and United Electrical, Radio and Machine Workers of America, p. 3 (and various other documents in the folder), MG 28, I 190, acc. 1996/0175, vol. 220, folder 55, Canadian General Electric, Guelph, Company Grievance against Union Re. Steward R. Thompson, Refusing to Perform Work Assigned to Him, 1957, UEF, LAC.

participating in an illegal work stoppage in which he had not participated and, in fact, that he had attempted to settle. As a result, the grievance was allowed.

Norman Matthews, the employer representative on the arbitration board, dissented from the majority judgement. His view was that MacDonald had joined the work stoppage when he punched out without seeking permission and that he had not attempted to persuade his colleagues to return to work. The latter point was true in that, after joining his colleagues at the union hall, MacDonald spent the day attempting to arrange a meeting with the employer with a view to resolving the issues giving rise to the stoppage. Since he did not immediately counsel the workers to return to their jobs and use the grievance procedure, in Matthews' view, he was as guilty as all of the others in illegally halting work.

Drummond Wren, the union representative on the arbitration board, meanwhile, countered Matthews' interpretation of MacDonald's actions at the union hall in his own supplementary addendum to the award. He argued that MacDonald had made a reasonable and good-faith attempt to resolve the issue in dispute by attempting to arrange a meeting with company representatives and asserted that "only a damned fool would expect a Steward in MacDonald's situation to go out with a company pass in his pocket to tell the men to return to work or to leave them in the throes of their problem at the union hall and return to work himself."⁵⁴

In some cases, employers claimed that workers were engaged in deliberate attempts to slow down production and were therefore engaged in illegal work stoppages. In the last case to be considered here, Westinghouse filed a grievance against UE in 1953 alleging that Local 504 and 32 of its employees, including a chief steward, engaged in a slowdown from 27 March to 30 April of that year on the assembly line at its Hamilton works that was producing its first all-Canadian refrigerator.

The company grievance was preceded by a union grievance filed on behalf of the workers on the line. The workers claimed in their grievance that the time study that was done on the 500 operations on the assembly line resulted in incentive pay rates that were significantly below their usual rates of pay. They argued, in support of the grievance, that there were an unusual number of "bugs" to be worked out on these lines, which slowed down the work. Thomas Speers, the group leader on the assembly line and the acting chief steward, maintained that the work distribution was wrong, that the parts to be assembled were so faulty that repairs slowed down the line, and that he had no time to properly organize the line effort because he was fully occupied with repair

54. "In the Matter of a Collective Agreement entered into between The Canadian Westinghouse Limited and United Electrical, Radio and Machine Workers of America, Local 504, and in the Matter of an Appeal to a Board of Arbitration, pursuant to the procedure as set out in the Collective Bargaining Agreement and by virtue of The Labour Relations Act," p. 2 of Drummond Wren to His Honour Judge W. S. Lane, 30 May 1958, vol. 150, folder E. McDonald, Suspension from Work, 2763, UE504F, MUA.

work. However, he said production would improve if the rate was increased by 10 per cent, the work distribution was reorganized, and the problem of faulty parts was addressed. The company, for its part, insisted in its initial response to the workers' grievance that the rate was correct and that the employees were engaged in a deliberate slowdown. Later in the grievance process, however, the company agreed to a 10 per cent increase in the rate, added an employee dedicated to repairing parts, authorized a superintendent to assist, and directed Speers to correct the work distribution issues. As a result, production per individual employee doubled and then trebled.

In the arbitration award on the company grievance alleging a deliberate slowdown, the board chair and the employer representative concluded that, notwithstanding any "bugs" that needed to be worked out, the significant increase in production per individual employee after the rate increase and other adjustments by the company indicated that the assembly line was deliberately slowed down and therefore a slowdown had taken place. But was the union responsible for the slowdown? Westinghouse had continually complained to Speers about the slowdown, but he had denied that a slowdown existed, done nothing to remedy the slowdown as a result, and supported the workers on the line. In the view of the board, however, he encouraged and sanctioned the slowdown, and since Speers was a Local 504 representative and officer, the union was responsible for the slowdown.⁵⁵

Arthur Roebuck, the union appointee on the arbitration board, argued in his dissent from the majority award that a slowdown did not exist and, in fact, bad management was the cause of any production problems. He began by noting that the term "slowdown," as used in collective agreements and in labour relations, meant "a conspiracy among employees by concerted action to limit production for the purpose of forcing concession by the employer." The company, however, only presented evidence of variations in the pace of production over a period of time and asked the arbitration board to assume a conspiracy based on this evidence.

Even if he had found that there had been a slowdown, Roebuck determined that the union would not have been responsible for it. First, the company did not inform the Local 504 executive of the alleged slowdown during the time it was occurring, even though company representatives were in daily contact with executive members. The company maintained that Speers, the chief steward, was aware of the details of what was happening on the affected assembly line and therefore should have informed the union executive of the alleged slowdown. Speers, however, did not view the issues on the line as a slowdown and, according to Roebuck, the company should not have expected him to report something to the executive that he maintained did not exist.

55. "In the Matter of a Collective Agreement entered into between The Canadian Westinghouse Limited and United Electrical, Radio and Machine Workers of America, Local 504," vol. 215, folder Company Grievance #1, Re. Range Line Slowdown, UE504F, MUA.

Second, Roebuck maintained that stewards were not officers of the union, and therefore the union was not legally aware of the alleged slowdown when a steward was allegedly aware. Stewards' duties were limited in the collective agreement to presenting grievances on behalf of individual employees, including non-members of the union covered by the agreement. "It is absurd to say," Roebuck wrote, "that a Steward's knowledge is Union knowledge, and the absurdity is even more extraordinary when the Steward is question denies to the Company knowledge of something which he says does not exist."

Roebuck continued his dissent by arguing that, even if members of the union executive were aware of the alleged slowdown, it was a violation of elementary principles of agency to suggest that this made them, as agents, liable for the actions of their principals. There was nothing in the collective agreement, according to Roebuck, suggesting a union duty to force employees to observe the agreement. Rather, the union's duty was limited, in Article 1(3) of the agreement, to undertaking to "promote amongst its members good workmanship and regular attendance." Hence, Roebuck disagreed with Laskin, who, in the Local 507 case discussed above, determined that the leadership and the union were the same.⁵⁶

What do we make of UE's declared support for mid-contract work stoppages in light of these cases, recognizing that we would not expect explicit acknowledgement of such support to be presented at arbitration hearings? Variable responses are to be expected given the decentralized and democratic nature of the union and the vagaries of local circumstances, local leaderships, and local steward networks. In the 1959 Local 504 Westinghouse walkout, for example, the leadership formally counselled working but supported the workers who walked out, supported the London workers, and considered the London product to be scab product. At one level, given the minor amount of work involved, the leadership may have considered that it was not worth engaging in a stoppage and that walking out would not assist the bargaining in London. Nonetheless, it felt the need to support the workers once they made it clear that they were supporting Scullion. In the 1966 Westinghouse overtime case, the leadership accepted the stewards' council's proposal for an overtime ban, probably knowing that it would be grieved and that it would be considered an illegal work stoppage. It nonetheless proceeded. This was in response to significant work intensification, which the leadership no doubt understood required a response beyond the 60 grievances they had filed. At CGE Davenport in 1949, meanwhile, the union leadership made efforts to have the workers return to

56. "In the Matter of a Collective Agreement entered into between The Canadian Westinghouse Limited and United Electrical, Radio and Machine Workers of America, Local 504, Award by Honourable Arthur W. Roebuck, Q.C.," pp. 4, 5, 7, vol. 215, folder Company Grievance #1, Re. Range Line Slowdown, UE504F, MUA; "Agreement between Canadian Westinghouse Limited and United Electrical, Radio, and Machine Workers and Local 504, Hamilton, Ontario," Articles 1, 3, 17, and 18, vol. 118, folder 1951–52 Contract Negotiations, UE504F, MUA.

work, but these efforts were likely more formal than substantive. The union leadership at CGE Peterborough in 1946, for its part, explicitly instructed the workers to stay on the job and did not support the steward's assertion that he led the walkout with union authorization, suggesting that, in this case, the union did not support the walkout. Generally speaking, the various union leaderships appear to have responded to the legitimate grievances of workers when an illegal workplace action was justified and provided leadership in cases of widespread crisis.

UE, as shown above, considered stewards to be central to the union's success, and it devoted significant efforts to establishing and maintaining steward networks in workplaces, educating and training stewards, and negotiating contract language recognizing stewards and their role. They had important roles to play in ensuring contracts were enforced, representing and leading their members in skirmishes with supervisors and other employer representatives, and being the face of the union on the shop floor. What do these cases tell us about their role in illegal work stoppages? Stewards played important parts in the 1959 Westinghouse scab product case. Even though they were informed by the union leadership that the London work was insignificant, once Scullion refused the London work, was suspended, and his comrades walked out in solidarity with him, stewards either passively or actively supported or led the workers in their refusal to work. Similarly, Speers, in the 1953 Westinghouse refrigerator-line case, led the slowdown as group leader on the line as well as chief steward. Stewards played an even more crucial role in the 1966 Westinghouse overtime ban case. The stewards' council decided to impose the overtime ban, which was supported by the union leadership, after first considering a full plant shutdown. In the 1957 CGE Guelph case, meanwhile, the union leadership appeared to distance itself, at least formally, from a steward involved in a dispute. It also argued that stewards were not union representatives, which appears to contradict the leadership's general position that stewards were at the heart of the union, though this may have been merely a legal tactic. Additionally, the 1958 Westinghouse case illustrates the difficult relationship that stewards had to negotiate between the employer and union members during work stoppages. MacDonald, the steward, risked employer sanction by joining his fellow union members engaged in an illegal walkout in order to provide leadership in attempting to resolve the dispute. Finally, workers walked out in support of their steward's leadership in a fight against price-cutting on incentive rates in the 1949 CGE Davenport case. These cases support the notion that stewards were at the heart of the union, that they were embedded in the membership to the extent that they were able to mobilize and lead the membership when necessary, and that the membership was prepared to support them.

Employers also recognized the power and strategic place that stewards held in the workplace and targeted them accordingly. The chief steward in the 1959 Westinghouse scab product case, for example, received additional discipline,

along with the union local's vice-president. Furthermore, in the 1957 CGE Guelph case, the employer grieved against the union in a successful attempt to ensure that stewards were considered agents of the union and that the union could be held accountable for their actions. More generally, employers were quick to counter any real or perceived illegal work stoppages by using the grievance procedure against the union and discipline to sanction individual employees or stewards.

Arbitrators, for their part, had little patience for work stoppages; for them, the channelling of workplace frustrations through the formal grievance procedure was a hallmark of the common law of the shop to which they subscribed. Laskin most clearly communicated this message in the award in which he granted damages to CGE for the 1949 work stoppage at its Toronto Davenport works, and in which he claimed that the leadership and the membership were one and the same when it came to determining responsibility for an illegal strike. Other arbitrators took similar positions. In the 1966 Westinghouse overtime case, for example, the arbitrator expanded the colloquial understanding of a strike to include the collective refusal to perform overtime. Arbitrators also recognized, however, that their awards performed an educative function for employers in addition to workers, suggesting leniency and reinstatement when they felt it was appropriate. In the 1946 CGE Peterborough case, for instance, Finkelman, with the consent of both the employer and union representatives on the arbitration board, concluded that the dismissed steward had engaged in an illegal work stoppage, but recommended that he be reinstated in the interests of ongoing harmonious relations between the union and the employer. Similarly, the arbitrator in the 1958 Westinghouse case concluded that, strictly speaking, the suspended steward should have obtained permission to leave the workplace, but doing so may have jeopardized his ability to assist in having his fellow union members return to work.

Wren, who represented UE on many arbitration panels, was the union appointee in the 1958 Westinghouse case and no doubt was instrumental in ensuring that the steward's grievance was successful. His supplementary addendum, countering the employer representative's dissent, reinforced the award's point that the steward would have considerably weakened his position with his fellow union members if he had sought his supervisor's permission to leave the plant in the circumstances. In most of these cases, however, the union representatives on arbitration panels dissented from the majority judgment and, in a few cases, provided written reasons explaining why. In so doing, they used their positions to articulate some legal justification for the union's positions. Dubin, for example, acknowledged in the 1959 Westinghouse scab product case that the union had violated the collective agreement by engaging in an illegal work stoppage, but that the union behaved responsibly in the face of an intransigent employer. Roebuck, in the 1953 Westinghouse slowdown case, contended that bad management was the cause of the problem and, in any event, the company had not informed the union of the alleged slowdown

and stewards were not union officers so the fact that a steward was aware of the alleged slowdown was irrelevant. Goodman, meanwhile, claimed in the 1957 *CGE Guelph* case that stewards were not union officials, as contemplated in the collective agreement, as their authority was limited to processing grievances and did not encompass local-wide responsibilities.

Conclusion

UE'S GENERAL EXPERIENCE with the grievance and arbitration system in its formative years suggests the importance of adopting a collective and political approach to contract enforcement. The union attempted to build shop-floor power with active and dense steward structures, striving to have as low a worker-to-steward ratio as possible and expecting stewards to be political leaders in their departments. Grievances were understood to be part of a broader struggle in which workers were engaged to advance their rights in the workplace. The outcomes of successful and unsuccessful grievances and arbitrations were publicized through periodicals and leafleting to counter the individualizing and personalizing tendency of grievances (in contrast with the current widespread practice of treating grievances as confidential procedures). As well, some UE members, stewards, and leaders were prepared to engage in work stoppages to enforce contractual rights and accepted that there would be legal consequences to those actions.

The cases considered here show that the interplay between worker self-activity, steward leadership and organization, and the local union leadership influenced and shaped the use of midterm work stoppages as a method of contract enforcement. For the most part, workers initiated the work stoppages, although stewards were clearly actively involved in leading and coordinating some of them. There is no evidence that the union leadership initiated any actions, though they implicitly encouraged some actions or, at least, were slow to exercise their legal obligation to counsel their members to return to work. The broader culture and philosophy of the union undoubtedly contributed to a sense among the members that midterm work stoppages would be tolerated and supported in the right circumstances, even though, as in one case, the union had to formally state that a steward had mistakenly assumed the local leadership sanctioned the stoppage. Furthermore, stewards were clearly more than grievance handlers in these cases. They were quick to assume leadership roles – even at the risk of attracting additional sanctions from the employer – to ensure that the actions were as successful as possible and to provide whatever protection they could to their members.

In the end, it is unclear whether or not UE had a coherent contract-enforcement strategy that extended from the district leadership to the shop floor and, indeed, it is probably unrealistic to expect that such a comprehensive strategy could operate in any systematic way given the complexity and variability of workplace experiences across these two employers. The district leadership

certainly believed, as Jackson is quoted above as saying, that the best way to get a satisfactory grievance settlement was to let the boss know production would be stopped, that there were very few cases in which the union called workers back to work once they had walked off of the job, and that at times it was necessary to counsel workers to return to work when staying out over a specific issue might endanger the union as a whole. It is reasonable to conclude that some workers, and especially stewards, understood this and acted accordingly. Others undoubtedly acted primarily in reaction to speed-ups, perceived injustices at the hands of a foreman, or other employer actions. If there was not a coherent strategy, there was a union and shop-floor ethos that accepted the role of midterm work stoppages as an important, if minor, tactic in enforcing the newly negotiated collective agreements.

What is to be learned about the role of midterm work stoppages in the broader grievance arbitration process from UE's experience during its first twenty years of legally enforceable contracts at GE and Westinghouse? First, unions should consider them as legitimate options in their contract-enforcement toolkit. Second, dense steward networks are crucial components of a union's workplace presence. Third, stewards, and members generally, need to be educated about the range of methods available to them both to enforce contracts and to renew them. Fourth, grievances, arbitrations, and workplace actions are collective, social, and political processes, and information about successes and failures should be communicated regularly to the membership. Fifth, union-appointed arbitration board members have important roles to play in influencing arbitration board chairs and developing labour-friendly arbitral jurisprudence. And, finally, labour and employment legal regimes – and grievance and arbitration procedures in particular – are malleable constructs that can be challenged, defied, and adapted as part of broader union strategies and tactics to extend the frontiers of workplace justice.