

**"We'll hang all policemen from a sour apple tree!":
Class, Law, and the Politics of State Power in
the Blubber Bay Strike of 1938-39.**

by

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ABSTRACT

In the wake of President Roosevelt's New Deal for labour in the United States, the International Woodworkers of America (IWA) experienced tremendous organizational growth in both Oregon and Washington. Fearing the arrival of the IWA in British Columbia, the provincial government enacted the Industrial Conciliation and Arbitration (ICA) Act as a means to preserve the industrial peace through state regulation of the class struggle. It was at the company town of Blubber Bay on Texada Island that the Act was tested for the first time in an eleven-month strike between Local 163 of the IWA and the Pacific Lime Company. With the failure of the legislation to broker a settlement, the union's campaign for recognition was subsequently enveloped by clashes over the common law rights of private property which limited workers' mobility in the community and the criminal laws of unlawful assembly that jailed strike leaders. Through an investigation of the legal struggles between the state, company, and union this project demonstrates that the statutory, criminal, and common laws in question were dedicated to the reproduction of capitalist social relations by regulating or eliminating the collective political activities of working people at Blubber Bay and, by extension, the arrival of the IWA in BC. As well, such struggles reveal the fundamentally different conceptions of legality put forth by the union. Furthermore, this project illuminates the ways in which the expansion of formal collective bargaining contained class struggle and how the law and legal process shaped the political choices of working people. Indeed, the Blubber Bay conflict provides a window into the role of the state in labour/capital relations; in particular, its capacity through consent and coercion to legitimize its role as arbiter of competing class interests, secure allegiance to the rule of law, and diffuse oppositional challenges to the existing order.

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INTRODUCTION

What seas what shores what grey rocks and what
islands
What water lapping the bow
And scent of pine and the woodthrush singing through
the fog
What images return¹

T.S. Eliot

It was 21 August 1938. John Stanton sat at his desk. He was worried. Earlier that day he received word from Jack Hole, President of Local 163 of the International Woodworkers of America (IWA) at Blubber Bay, Texada Island, that officials of the Pacific Lime Company might seize control of the union's makeshift picket camp. Although Stanton had been the union's legal counsel for only three weeks, such rumours did not surprise him. Indeed, since the collapse of negotiations and the beginning of the strike that June, intimidation of unionists and their supporters in the small company town had been widespread and, at times, quite vicious. Stanton understood what was at stake there. In the early weeks of the strike, both white and Asian workers were evicted from their company homes. Thus, in order to have a fighting chance against the company, the union needed a space in which to discuss strategy, forge solidarity, and sleep. The key, then, was to secure a legal right to the land where the picket camp stood. It was, after all, one of the few plots in the community not owned by the Pacific Lime Company. To this end, Stanton rolled a clean sheet of newsprint into his typewriter and composed a letter to IWA organiser Arne Johnson in Vancouver. He asked Johnson to visit Mr. William Winchester,

an old resident of the Fraser Valley who owned lot 32 on Texada Island, the site of the picket camp. Try to have Winchester register his title with the Crown, Stanton advised, because "this is the first step which has to be taken to protect the property." Days later, a telegram from District Council Secretary Fred Lundstrum arrived at Stanton's office indicating that Winchester had secured his claim to the land and also agreed to rent the site to the union for one dollar per month. Lot 32 was safely in union hands. In the context of the larger battle to unionize Blubber Bay, this was only a small legal victory, but Stanton was relieved, at least for now. The strikers had a place to hang their hats.²

He placed the letter in a manila folder alongside the contract he had signed with the IWA earlier that month. At the time, the file was slim, containing only a few items. However, as the conflict between Local 163 and the company intensified, as the state intervened with greater and greater force to bring about a settlement of the dispute, the files multiplied, ballooning with all the details. Each letter, note, and article in the files was fastened to the next, constructing a narrative of sorts; like trail tape, they marked the pathways taken and moments of possibility that emerged during the struggle to unionize the Pacific Lime Company from 1937 to 1939. Key points were framed by the charcoal grey of Stanton's pencil. The sobriety of a memo, the terse prose of affidavits, the panicked and compressed quality of a telegram reveal the topography of the union's struggle. That a lawyer would keep such meticulous records about a client is not surprising; that a strike for union recognition would generate such official, not to mention officious, correspondence certainly is. This was class conflict: a bitter fight over union recognition and the provisions of a collective agreement. But as Stanton's actions in securing the picket

camp and the girth of his files reveal, it was a struggle shaped extensively by the law, legal process, and state intervention. Indeed, at every legal turn, the collective political activity of the workers at Blubber Bay was under attack. The arbitration board convened by the government refused to recognize the IWA as the sole bargaining representative of the workers; common law rights associated with private property limited the workers' ability to find a space on the island to meet as a group and discuss union strategy; the criminal laws of unlawful assembly and rioting jailed strike leaders to enforce bourgeois conventions of proper political discourse. As a result, Local 163 lost the battle at Blubber Bay; its attempt to secure an agreement with the Pacific Lime Company was strangled by a web of legality -- both statutory, common, and criminal -- and crushed by the force of employer-state repression. And it is precisely this phenomenon, the links between the law, class struggle, and the maintenance of capitalist social relations as revealed through the struggle at Blubber Bay, that is the focus of this project.

The 11 month dispute between Local 163 and the Pacific Lime Company occurred against a backdrop of tremendous change taking place in both international working-class politics and national economic and labour policy. In 1935, the Workers' Unity League (WUL), the political centre for Communist trade union activity in Canada, disbanded in order to create a popular front with its progressive allies to fight the rise of fascism in Europe and abroad. To this end, thousands of skilled Communist organizers and militant unionists abandoned the struggle to create what WULers called "autonomous revolutionary organizations" and joined the ranks of the craft-dominated Trades and Labour Congress (TLC), the Canadian counterpart of the American Federation of Labor

(AFL). The dissolution of the WUL was followed by the passage of the Wagner Act by the Roosevelt administration and the subsequent meteoric rise of the renegade Congress of Industrial Organizations (CIO) in the United States. The Act codified all existing federal labour legislation and provided unions with the right to organize and bargain collectively with their employers, outlawed "yellow-dog" contracts, and detailed which employer practices violated workers' rights to choose their own bargaining representatives.³ Buoyed by the apparent support of the President and the political acumen of Communist organizers, the CIO successfully unionized hundreds of thousands of workers in the mass production sectors of American industry.⁴ In the Pacific Northwest the new "psychology of success" ushered in by the Wagner Act gripped lumber and sawmill workers in both Oregon and Washington and produced an organizational boom not witnessed since the heroic struggles of 1919.⁵ By 1938, the IWA, a new CIO affiliate, boasted a membership of nearly 100,000 workers.

In British Columbia, however, the situation was quite the opposite. Fearing the arrival of the CIO, the provincial government created the Industrial Conciliation and Arbitration (ICA) Act. Heralded by some as a Canadian version of the Wagner Act, the ICA Act signalled a new interventionist role in labour relations for the state in BC. It created the institutional infrastructure and bureaucracy necessary for a review of industrial disputes by government appointed commissioners, the operation of conciliation and arbitration hearings, and the enforcement of collective agreements. Despite government rhetoric concerning its neutrality, the ICA Act was an attempt by the state to preserve industrial peace and stave off the growth of militant unionism through compulsory

collective bargaining and the legalization of company unions.⁶ The imposition of the Act did not go uncontested. At Blubber Bay the organizational muscle of the Communist-led IWA and the state's machinery of dispute resolution met for the first time. It was there, through struggle and negotiation, that the IWA attempted to refashion both the legal form and content of the Act in line with its own conception of a more socialist society; a society where, at the very least, workers could organize and bargain collectively with their employers through organizations of their own choosing and exercise the unconditional right to strike.

The rise of the IWA and the making of the ICA Act are the focus of chapter one. Against the backdrop of the international's tremendous success under the Wagner Act, the leadership of the BC Coast District Council believed that without the assistance of the state in Canada it would be unable to unionize a lumber industry well known for its blacklist, ruthless repression of union activists, and transient labour force. Thus, despite the ICA Act's substantial shortcomings, the union decided to move its organizational campaign into BC, hoping that a struggle on the ground might push the government to amend the ICA Act and bring it in line with its American counterpart. Both the state and the union saw collective bargaining and the legal process as a means to obtaining specific, though conflicting, political objectives: for the former, the maintenance of industrial stability; for the latter, the potential for "one union in wood." The BC Coast District Council of the IWA answered the government's legislative challenge with a campaign to organize the lime mine and sawmill workers at Blubber Bay.

Chapter two examines the conciliation and arbitration proceedings which took place between the state, Local 163, and the Pacific Lime Company in the spring of 1938. It is through the multiple legal struggles that took place before the board that the capitalist assumptions and values reflected in and reproduced by the Act and the workers' fundamentally different conception of who should hold power in the employment relationship are revealed most strikingly. Indeed, it is through this clash of perspectives that the ability of this new regime of industrial relations to stave off the arrival of militant unionism and refashion workers' attitudes about the legitimate role of the state in labour/capital relations comes into focus. Woven into this larger battle over the ICA Act were other legal struggles between the union, company, and the state. With the collapse of negotiations and the beginning of strike action, the campaign to force a collective agreement with the company moved to another site of class conflict: the community. There, Local 163 found itself locked in a bitter conflict with the company over the use of particular spaces within the community: the Pacific Lime Company intimidating unionists by restricting access to important roads, the dock, and the local school house; the union claiming that its members possessed a customary right to move within the community as they pleased. For the company, control over the use of space within the community was rooted in its ownership of private property in Blubber Bay. During this moment of conflict, the enforcement of such common law rights of ownership was a means to eliminating those spaces within which workers' collective political activity was likely to develop. The remainder of chapter two provides an analysis of the role and function of

the law -- specifically the legal relations of public and private property -- in the expression and mediation of such class relations and class conflict within a spatial context.

The battles between unionists, strike breakers, and police over the use of private property resulted in the arrest of many unionists on charges of unlawful assembly and rioting, and a police officer for assault. The criminal trials of the Blubber Bay 15 are the focus of chapter three. While the arrests and subsequent conviction of most of the strikers illuminates the coercive dimensions of state power, the acquittal of a union leader -- an alleged Communist -- and the conviction of a police officer reveals its ideological function, specifically its ability to nurture support for constituted authority during a period of scrutiny and potential upheaval. It was this tempering of severity with mercy that reaffirmed the notion that regardless of class position, all were equal before and under the law. Indeed, taken together, the union's brush with the ICA Act, common law rights of property ownership, and criminal law of unlawful assembly and rioting illuminate the state's ability to shape the texture of class struggle, defeat the union's challenge, and, in the end, wash its hands of the entire mess.

By placing exclusive emphasis on the law, legal process, and the state I have departed significantly from the historiography of the IWA. Conventional analyses have detailed the rivalries between Communist and non-Communist factions within the union, a battle which culminated in the secession of the red-dominated BC Coast District Council from the International and the creation of the Woodworkers Industrial Union of Canada (WIUC) in 1948. According to Jerry Lembcke the removal of Communists from union's ranks came at the behest of the Co-operative Commonwealth Federation (CCF), the

American-based White Bloc of conservative woodworkers, other "Cold War warriors" and "outright reactionaries" who were determined to "break the back of the Communist labour movement on the west coast."⁷ Weakened, demoralized, and cured of its political "infection," the renegade WIUC returned to the IWA in 1950. In the context of such rivalries, the state matters very little, and the Blubber Bay strike even less. In every account, the defeat at Blubber Bay appears simply as a temporary "setback" for the IWA, a prelude to the breakthroughs and cold warfare of the 1940s.⁸

But in an unpublished doctoral thesis, Stephen Gray has charted new interpretive territory in terms of the role and function of the state in the making of the IWA. He argues that the rise of the White Bloc within the international was inextricably linked to the expansion of industrial legality in both BC and the United States. According to Gray, in its drive to organize the lumber industry the Communist union leadership relied on "state institutions governing labour relations" at the expense of rank and file militancy and a more "radical collective bargaining agenda." As a result, the union fell victim to the forces of conservative unionism that the leadership's state-centred approach "called into being during the legitimation process."⁹ His concern with the impact of labour law on the politics of the IWA reflects a renewed interest amongst labour historians in the role of the state in the making of the North American working class, specifically in the area of collective bargaining and class struggle. It is their work, that of the so-called "new institutionalists," that I have drawn upon to reconsider the struggle at Blubber Bay.

At the core of new institutionalism is a rejection of the liberal pluralist view of industrial relations which holds labour and capital to be

self-governing equals, who through collective bargaining, jointly determine the terms and conditions of labor power; and...see[s] the historic purpose of labor relations law as nothing more than the facilitation of this purpose.¹⁰

The pluralist perspective acknowledges the existence of conflict between workers and management; but it is understood as structural, rather than rooted in class interests, and therefore can be mollified through collective bargaining.¹¹ Taking heed of Theda Skocpol's advice to "bring the state back in," historians such as Christopher Tomlins and William Forbath have argued that state in the United States was not a neutral arbiter of competing social interests. Rather, it was a potent actor which ordered relations between labour and capital, routinized workers' experiences and, to borrow from legal scholar Karen Orren, established rules and regulations which structured workers' subsequent behaviour and the survival of capitalist social relations.¹² In his thoughtful study of the New Deal, Tomlins has argued that the expansion of formal collective bargaining institutionalized and limited class struggle. Thus, as trade unions came to accept the laws, bureaucracy, and party politics of the "liberal administrative state" in order to secure new rights, privileges, and freedoms more radical ways of interpreting and changing the world atrophied.¹³ For these scholars, unearthing the complex ways in which state institutions shaped labour/capital relations holds out the possibility for answering one of the age-old questions of American labour history: why no socialism?¹⁴

Such emphasis on the ideological function of the law reveals the profound influence of the Critical Legal Studies movement on the writing of labour history. While the politics of critical legal scholars are diverse, they possess a shared belief that the law is not a closed system of self-referential practices, norms, and rules, but a social construction, one which

embodies the dominant sexual, racial, and, perhaps most importantly for my purposes, the class commitments of its times.¹⁵ For Critical Legal Studies adherents the law is not only an instrument of gross coercion -- "a retaining wall of class power" -- but exists more broadly as a form of social practice.¹⁶ As Nicholas Blomley has pointed out, legal discourses do not act as an

external structure, but acquire meaning and saliency only in concrete social settings. Legal concepts and social relations are mutually intermeshed. Not only is there no legal concept that exists in isolation from social life, but it becomes increasingly difficult to describe social practices without recognizing the legal relations among the people involved.¹⁷

No longer autonomous and objective, the law is understood as deeply ideological, and given its reification of individual rights, private property, and the free market, that ideology is a variant of liberalism. Understanding both the ways in which the "deep structures of law" embedded in daily life have shaped social relations in accordance with this "pervasive, yet contingent, social vision," and what possibilities exist for alternative legal visions is the primary focus of the Critical Legal Studies movement.¹⁸

Taken together, new institutional and critical legal scholars have provided the conceptual tools to re-examine the Blubber Bay strike. In this regard, I have situated Critical Legal Studies concerns with "law as social construction" and the "deep structures" of law within a materialist context, emphasising the state's ability, through the law and legal process, to secure the necessary conditions for the extraction of surplus value and the free exchange of commodities. While the state may, at times, demonstrate a degree of autonomy from the agendas of specific capitalists, it is, in the end, a capitalist state; which is to say, "the accumulation it fosters is capitalist accumulation and the social relations for

which it claims allegiance and which it seeks to legitimize are capitalist social relations."¹⁹ Through an analysis of the legal struggles between the union, company, and state, I will demonstrate that the laws in question were dedicated to nothing less than the reproduction of a particular economic and social order by limiting or eliminating the collective political activities of working people at Blubber Bay and, by extension, the arrival of the IWA in BC. In so doing, I will illuminate the ways in which the expansion of formal collective bargaining structured the actions of working people during this period of overt class conflict, what they thought of as just and inevitable, and how the law shaped their political choices and expectations. In the end, the Blubber Bay strike provides a lens through which to view the complex dimensions of state power; specifically, its enormous ability -- by coercion and consent -- to legitimize its role as arbiter of opposing class interests, nurture consent for the rule of law, and quash "all or most manifestations of opposition" to the existing social order.²⁰

CHAPTER ONE

In 1935, the Seventh Congress of the Communist International issued a directive to their Canadian comrades calling for the liquidation of the Workers' Unity League (WUL) and the creation of united front organizations to fight the rise of fascism in Europe and abroad. With the disbanding of the WUL, the Communist leaders of the Lumber Workers' Industrial Union (LWIU) abandoned their rhetoric labelling social democrats and conservative trade unionists "social fascists" and began a vigorous campaign for trade union unity in British Columbia. To this end, the LWIU merged with the conservative United Brotherhood of Carpenters and Joiners (UBCJ), joining their American comrades of the Northwest Council of Sawmill and Timber Workers in Washington and Oregon who voted to return to the mainstream fold a year before.¹ The movement of the Communist-directed LWIU (renamed the Lumber and Sawmill Workers' Union) into the UBCJ and subsequently the renegade CIO was accompanied by a drastic shift from revolutionary to reformist objectives. Before the dissolution of the WUL, the leadership of the LWIU was committed to nothing less than bringing about the collapse of capitalism. To achieve this goal, Communist-led unions -- the self-proclaimed "vanguard of the working-class" -- were not to be inhibited by the reformism of social democracy or the false promises of the capitalist state.² With the dawn of the united front, however, calls for the demise of capitalism atrophied along with the LSWU's isolationism and rejection of state intervention in the class struggle.³ The union was still committed to leading the working class to socialism, but, as Norman Penner observes, "it now moderated the means by which this

would be achieved."⁴ For the Communist leadership, this meant a defence of the New Deal in America and a tenuous alliance with their former rivals, the United Brotherhood of Carpenters and Joiners.

But the relationship between the LSWU and the Brotherhood, like that of the CIO and the AFL, was tense and volatile, rooted in the age-old traditions and politics which divided pure-and-simple unionism from industrial unionism.⁵ Indeed, few in the LSWU would forget the sell-out of the Northwest lumber strike of 1935 orchestrated by Abe Muir, executive member of the Brotherhood.⁶ In Washington and Oregon 30,000 loggers and sawmill workers went on strike against some of the largest lumber producers in the Pacific Northwest for better wages, shorter hours, and union recognition. The UBCJ's attempt to reach a compromise settlement with the employers was bitterly opposed by the Communist-led wing of the union. In an effort to crush the left-wing opposition, the "corrupt Abe Muir sell-out machine," as one writer for the Lumber Worker described it, revoked the charters of several dissident locals, replacing their leadership with loyal Muir supporters.⁷ As a result, the strike eventually collapsed under the weight of the union's own internal divisions and employer-state repression.⁸

It was not surprising, then, that when the CIO was expelled from the AFL the fragile relationship between the Brotherhood and the LSWU dissolved altogether.⁹ In September of 1936 the representatives of the ten district councils of the LSWU gathered in Portland to form the Federation of Woodworkers and protest the suspension of the CIO. Harold Pritchett, leader of the BC District Council, was elected President of the new federation.¹⁰ The UBCJ responded to this unsanctioned gathering of dissident locals by threatening a

massive boycott of all IWA-CIO handled products. Though Pritchett went to great pains to maintain a united front within the trade union movement, the tremendous success of the CIO in the eastern US and its subsequent transformation into a powerful rival of the AFL resulted in increased pressure from the lumber workers for CIO affiliation. On 15 July 1937, delegates from the Federation of Woodworkers convened in Tacoma and voted to become an affiliate of the CIO, renaming themselves the International Woodworkers of America (IWA). The stage was set for an intense struggle between the leadership of the Brotherhood and the IWA for allegiance of the lumber workers of the Pacific Northwest.¹¹

The response of the BC Coast District Council of the IWA to the campaign for CIO affiliation was cautious, demonstrating a tremendous excitement about the possibilities for industrial unionism as well as a sensitivity to the profoundly different political context in BC. The drive to organize the lumber workers in BC was at a virtual standstill. Speaking to union members at the annual convention, BC Coast District Council Secretary T.J. Bradley marvelled at the activities of their counterparts in Washington who were successful, with the assistance of the NLRB, at raising wages, improving conditions, and signing contracts. "Each time we launched out on an organizational campaign [in BC] the bosses have raised wages in an attempt to stem organization," Bradley lamented.¹² As a result, the large logging operations in Northern BC and the sawmill operations in the Lower Mainland remained unorganized. The persistence of the industry blacklist, employer-controlled hiring agencies, and outright physical intimidation perpetrated by camp bosses and managers left many workers scared to come near the union for fear of losing their jobs. With limited resources and few organizers in the field, Bradley

recommended that the union consider concentrating their time and energy in one specific area in order to establish a beachhead and provide a tangible example of the union's ability to take on and defeat large logging operators.¹³

Since the AFL/TLC was not interested in organizing the "unskilled" lumber workers, the ability of the BC Coast District Council to reinvigorate their organizational drive ultimately hinged on their relationship with the CIO. Bradley was well aware of the resources and potential symbolic power that came with flying the CIO flag, though he was adamant that the unity of the Canadian trade union movement should not be sacrificed on the altar of affiliation. "I think that we should...try if possible to... continue our connection with the Federation of Woodworkers and at the same time stay in the Trades and Labour Council," he told the delegates.¹⁴ To be successful in BC, the IWA had to walk a fine political line. Affiliation with the CIO was crucial in order to speed the drive for industrial unionism in the Pacific Northwest. However, it was equally important to maintain their connections with the TLC to avoid isolation from the recognized trade union movement in Canada. Indeed, without a Canadian version of the Wagner Act, there was no guarantee that CIO affiliation would produce the same dramatic success in Canada that it did in the US. Thus, if the act of affiliation was to translate into organizational gains, it was important for the LSWU to perpetuate their links to the TLC's nation wide campaign for union rights.¹⁵ This was the irony of organizing during the united front period. As Penner has observed, in spite of everything "they had been told and preached," the Communists were now bending "all their efforts to defend the liberal democratic state" and forging alliances with those once considered impediments to socialism.¹⁶

Despite the creation of the IWA and affiliation with the CIO, the vast majority of BC's estimated 25,000 lumber workers remained unorganized. The blacklist persisted, wages continued to drop at some of the largest operations such as Fraser Mills, and the expected windfall of resources from the new International did not materialize.¹⁷ At the first district convention after the founding of the IWA, local presidents and officers spoke of hostile employers and the continued physical intimidation of organizers and union sympathizers. "The problem is trying to keep old members," one delegate remarked, "we cannot get in touch with them if we have no delegates in camps." Hjalmer Bergren, president of Local 80, one of the largest on Vancouver Island, agreed, claiming that "as soon as they leave the district that is the last you hear from them."¹⁸ The lumber workers' itinerancy was a throwback to the early days of the industry when they often quit their jobs, went on strike, and picketed camps and mills when it suited them.¹⁹ At that time, protests were sporadic and unwieldy, flaring up briefly then disappearing, often before the LWIU was even aware that there was a problem. Protracted disputes were usually conducted without a strike fund, the workers living in tent-cities and running in flying picket squads. Employers responded to workers' protest by dismissing entire crews and hiring replacement workers through their own hiring halls, usually with the state's blessing and often beyond the reaches of federal labour legislation.²⁰ The transient nature of logging employment made it nearly impossible to maintain a union presence in a single camp over an extended period of time, let alone sign and enforce a contract. While the launch of the Laur Wayne, flagship of the "Loggers' Navy," provided the Vancouver locals with a more effective means of contacting the men in the far reaches of the Queen Charlotte

Islands and northern coast area, without a stable union presence in each camp its success was somewhat limited.

District President John Brown was well aware of the obstacles facing his twenty-four organizers. Addressing the convention, he attempted to put the best face on a discouraging situation, holding the state responsible for the union's slow growth:

We are all fully aware of the difficulties in organizing the lumber industry--an industry scattered over the whole of this province. Having no legislation on our statute books--legislation that would assist us in bringing about a state of organization--having no Wagner Act, having no sympathetic President in this Dominion, and having a very hostile set of employers trying to intimidate and stop organization; in spite of all this we have made...progress.²¹

Like Brown, Bergren was concerned with the union's condition. There was no central or unifying set of objectives he claimed, an absence which made it "rather difficult to activize [sic] the members in the camp." He too placed great emphasis on the need for the state to play an active role in the organization of the logging industry.²² Indeed, with the state's assistance, the IWA hoped to harness the lumber workers' independent instincts and penchant for immediate, direct action at the work site, an objective which required more resources and discipline than the LWIU had been able to provide during the WUL's revolutionary "Third Period."

While the leadership of the BC Coast District Council discussed their political and organizational woes, the IWA district councils in Washington and Oregon were involved in a debilitating and often violent series of jurisdictional conflicts with the UBCJ.²³ Shortly after the workers in seven of Portland's eleven major sawmills voted for affiliation with the IWA, the AFL orchestrated a massive boycott to turn back the organizational tide.²⁴

When the AFL's campaign finally forced the closure of several mills, Harold Pritchett called upon the National Labor Relations Board to decide once and for all which organization was the legal representative of the sawmill workers.²⁵ The dispute was eventually settled in 1939 after NLRB-supervised elections granted the IWA jurisdiction over only six mills. The AFL, who had steadfastly opposed the intervention of the NLRB and often denounced its decisions as outright favoritism of the CIO, accepted the decision, retaining control of five sawmills.

Although the IWA was unable to orchestrate a clean sweep of the Portland sawmills, Pritchett and the international leadership recognized the crucial importance of the NLRB in their drive to unionise the lumber industry. Though its proceedings were often costly and bureaucratic, they were in the end less draining for the young International than protracted battles in the field with recalcitrant employers and the well-funded, well-organized AFL. At the first constitutional convention of the IWA, Pritchett railed against the "starvation policies" of the AFL in Portland, charging his rivals with collaborating with employers, installing charters behind IWA picket lines, and forcing people out of work. For Pritchett, the way out of this jurisdictional quagmire was clear. "Our problem in the field of labor is to organize, and, having become organized, to demand the right of collective bargaining as the law provides and then to educate our people to the true meaning and value of contracts," he announced.²⁶ The ability of the IWA to garner the "respect and admiration" of working people hinged on its ability to provide them with a "better deal". With this rhetorical nod to Roosevelt, Pritchett considered the NLRB indispensable to achieving this objective. Indeed, it was the heart and lungs of his

political programme: "We cannot get it without collective bargaining. That is why we are creating our International."²⁷

Pritchett's emphasis on the sincerity of the IWA's political agenda and the importance of bargaining in good faith with lumber operators was as symbolic as it was strategic. During this period of great CIO success in the US, state and provincial governments, employers, and rival unions frequently resorted to red-baiting to counter the drive for industrial unionism. During the Portland campaign, for example, the IWA was subjected to intense scrutiny and harassment from the Portland Police Red Squad and the American Legion Subversive Activities Committee. As well, the House Committee on Un-American Activities was becoming increasingly interested in Pritchett's political affiliations. In this regard, to organize under the auspices of the NLRB demonstrated the legal, as opposed to the "subversive", nature of the IWA's strategy. He was under no illusions that the NLRB would completely silence his most reactionary critics. At the very least, though, it would pressure obstinate employers to bargain in good faith. As he argued

We are endeavouring to improve standards of living and conditions of labor; and we adhere to the policy...that these things can best come thru [sic] the instrument of collective bargaining. We will expect the operators who enter into any contracts to live up to their part. This requires of us good generalship which has not always been displayed in the past. Failure on our part to use good tactics has always been used by the operators in order to win public support.²⁸

Success, therefore, necessitated an understanding of the legality of collective bargaining and the ability to present well-documented and effectively argued cases at NLRB hearings. By the first constitutional convention, the international leadership had a

permanent staff of six and a legal department consisting of twelve attorneys. The lawyers' primary function was to assist local unions in filing their grievances with the NLRB. As well, they served as a conduit to the "central legal department" of the CIO in order to coordinate legal strategies and share information.²⁹ Pritchett was particularly pleased with the capabilities of the new legal department, remarking at the convention that

in the short period of six or seven weeks that this department has been established within our International, we have been able to give immediate assistance in 16 cases involving injunction, restraining orders, attachments of Union treasuries by the AFL leadership, as well as a large number of cases coming directly under the Wagner Act.³⁰

Pritchett understood that the creation of a bureaucracy required more money.³¹ However, the importance of the lawyers' work and the "magnitude of the problems" which faced such "big organizations" justified the additional expenses, even if it meant increasing union dues. "We cannot get something for nothing," he thundered. Labour bureaucrats, once reviled for their "intimate connections" with the state apparatus, were now considered indispensable to the success of "big organizations."³² Indeed, the immense importance of the law to the successful organization of the lumber industry was captured by one delegate who remarked that "[k]nowledge is power....We must not be caught dreaming our way through situations. We must read and learn and approach our problems with knowledge."³³

Pritchett's address to the first constitutional convention spoke to the intimate relationship which was developing between the NLRB and the IWA. The new regime of industrial relations ushered in by the NLRB entailed a drastic restructuring of employment relations -- new disciplines, new incentives, and a new understanding of trade unionism.

In navigating the murky waters of secession, the international leadership sought the protection of the NLRB against the determined efforts of the AFL and lumber operators to crush the expansion of the CIO. The leadership's political position rested on an intriguing paradox. As Christopher Tomlins has observed, the power of employers and their allies to resist militant industrial unionism demonstrated the IWA's own incapacity to extend the "ambit of collective bargaining unaided."³⁴ However, by calling for state involvement in order overcome such resistance, they were by necessity becoming intimately involved with a power "over which they historically enjoyed little control."³⁵ With a US membership fast approaching 100,000, the necessity of the state to the IWA's success was indisputable. As the situation in BC indicated, without legal protection it was all but impossible to organize an industry infamous for its blacklist and ruthless repression of union activists. Thus, as the government of British Columbia signalled its intention to introduce its own version of the Wagner Act, the IWA prepared to push their organizational campaign onto Canadian soil. Unlike President Roosevelt, however, the Premier of BC, T.D. "Duff" Pattullo, was not about to cede any organizational or political ground to the IWA.

For Pattullo, the severe human and economic consequences wrought by the Depression demonstrated the need for "socialized capitalism," a kindler, gentler system of economic exploitation mediated through extensive state intervention in civil society. Such an endeavour required a new understanding of government and an expert knowledge of the possibilities of social planning. Thus, shortly after his election in 1933, Pattullo assembled a braintrust and appointed Harry Cassidy, founding member of the

Toronto branch of the League for Social Reconstruction, as the director of social welfare. Cassidy, who studied extensively at the Universities of Toronto and British Columbia, represented a new "government generation" of intellectuals committed to social reform through the application of allegedly scientific principles.³⁶ Cassidy's approach to reform meshed well with the Liberals' attempt to bring a "mini-New Deal" to British Columbia. "Clearly the time had come for a provincial government to turn from the easy-going frontier politics of roads and bridges to the politics of social welfare in order to retain the confidence of the people," he remarked.³⁷

Over the course of his first term in office, Pattullo orchestrated the passage of legislation which touched upon all areas of provincial jurisdiction. In the area of labour relations, for example, the government established a new minimum wage for men and women, regulated the apprenticeship system, limited hours of work, and reorganized the workers' compensation system.³⁸ Without the financial assistance of the federal government, however, Pattullo's program of reform was limited, its most ambitious components such as large-scale public work projects and health insurance dashed on the rocks of Ottawa's fiscal conservatism.³⁹ Thus, when Pattullo hit the campaign trail in the summer of 1937, the "work and wages" rhetoric which animated his first term in office had largely disappeared, replaced by an agenda dominated by seemingly endless negotiations with Ottawa concerning the nature of Canadian federalism.⁴⁰ Yet despite this marked shift in political programme, Pattullo reappointed George S. Pearson -- "the keenest exponent of social and labour legislation in the cabinet" -- as Minister of Labour.⁴¹ Against the backdrop of the CIO's spectacular rise and the creation of the IWA, Pearson would

introduce the Industrial Conciliation and Arbitration (ICA) Act to the Legislature in November, an attempt to use the machinery of government to stave off the arrival of industrial unionism.

From his Government Street office in Victoria, Pearson watched the IWA-CIO's organizational success in Washington and Oregon with great unease. Although labour relations in BC were "fairly peaceful," he was concerned about the government's ability to meet the challenges posed by the inevitable arrival of the IWA.⁴² "The machinery we have in British Columbia for dealing with labour disputes is practically nil," he told the Premier, "leaving all power to deal with industrial disputes to the authority of the Federal Industrial Disputes Investigation Act [IDIA]."⁴³ Created in 1907, the federal statute provided for compulsory conciliation in labour disputes involving essential services such as coal production and telephone and railway operations. Although disputants were required to appear before a conciliation board, its decision was not binding, nor was there any provision for compulsory arbitration.⁴⁴ For Pearson, the IDIA was simply inadequate. The events unfolding south of the border demonstrated the need for a more comprehensive, modernized industrial relations policy, one that was capable of meeting the "threat of the radical labour movement."⁴⁵

As the government prepared for the first session of the new parliament, Pearson wrote a lengthy letter to the Premier expressing his great anxiety over the "sudden" increase in "Communitistic" activities in BC. The "elements" which were now present in the CIO were the "most forceful" in the province, he told Pattullo, and they "have almost captured control of the Trades and Labour Council of Vancouver on more than one

occasion in these years."⁴⁶ Pearson was particularly concerned with the largest employers in the province who refused to negotiate with Communist-led unions, especially those in the "heaviest industries" such as logging:

Every sensible person will admit the justice of the claim of men to organize themselves for the purpose of discussing their problems with their employers and negotiating terms of employment. This being the case, I am convinced that as labour conditions settle themselves in the US, a definite attack will be made upon British Columbia....During this attempt, industry will suffer tremendously, through strikes, unless we are prepared to meet it.⁴⁷

With an "attack" by the CIO looming, Pearson insisted that the government pass legislation which permitted working people to organize for the purposes of collective bargaining and, at the same time, acted to minimize the pernicious influence of "Communitic" elements. It was crucial that the new statute allow workers to affiliate with any organization, be it a trade union, company union or employees' association, and submit to compulsory conciliation when a strike or lock-out was imminent. While such legislation would grant working people great new "privileges," Pearson concluded, there were certain responsibilities for unions which "make it impossible for them to disrupt industry without there having been a thorough enquiry [by the government] into the merits of the dispute."⁴⁸

Pearson's letters to Pattullo revealed his firm belief that the state must act as the arbiter of competing social interests in order to safeguard the rights of reasonable, that is non-militant, trade unions and, more importantly, employers. It was a position that he had laid bare in an address to the Vancouver Trades and Labour Council during his first term in office: "To the extent in which you organize for industrial peace, you will have the support of the government. To the extent that you organize for industrial war, you have

the government's opposition."⁴⁹ The key, then, was crafting the perfect piece of legislation. Indeed, the effective management of industrial conflict required an intimate knowledge of the relationship between working people and their employers, as well as the proper bureaucratic and legal machinery to facilitate a peaceful settlement. According to Pearson, when a strike or lock-out was at hand, the belts and gears of "conciliatory action" must be "set in motion," the government technicians standing close by with the legislative tools required to determine the "merits of the dispute."⁵⁰ With the proper care and maintenance, the machine would produce fair and equitable decisions with great precision, protecting the industrial peace from those who wished to "strike, strike, strike."⁵¹ "Machinery" is an intriguing metaphor, one which illuminates Pearson's profound belief in the state's neutrality and its near-scientific ability to intervene in civil society in order to create and maintain harmony between opposing classes.⁵² Underlying this liberal appeal to impartiality, however, was the unwavering assumption that it was only irresponsible unions, especially those led by Communists, not bad employers, that were capable of fomenting industrial strife.

As Pearson developed his new piece of legislation and the IWA battled the Brotherhood in Portland, the Trades and Labour Congress of Canada (TLC) began its nation-wide campaign for trade union rights. Inspired by the success of the Wagner Act, the TLC drafted a model bill which called for the right to organize and bargain collectively and advised their local counterparts to lobby for its passage at the provincial level.⁵³ In October, representatives from ninety local unions from across BC met in Victoria to discuss the TLC's position.⁵⁴ After two days of debate, the assembly endorsed the TLC leadership's

recommendations and elected a delegation to meet with the Premier and his cabinet to discuss the model bill. According to Percy Bengough, secretary of the Vancouver, New Westminster, and District Trades and Labor Council and vice president of the TLC, the delegation's agenda was simply to "seek legislation designed to safeguard the interests and improve the conditions of the workers in [BC]."⁵⁵ During the meeting with the Premier, Bengough insisted that the government articulate the precise nature of workers' rights "so that they [workers] would be placed in a legal position to protect their interests."⁵⁶ Pattullo assured Bengough that he would give the delegation's position "sympathetic" consideration, and then adjourned the short meeting.

Buoyed by the interest generated by the TLC's campaign, the Co-operative Commonwealth Federation (CCF) members in the provincial legislature attempted to force Pattullo's hand on the issue of union rights.⁵⁷ After two weeks of "preliminary sparring," CCF member Harold Winch introduced a motion based in part on the TLC's model bill, claiming that it was even stronger than the one drafted by the union conference in Victoria.⁵⁸ Pattullo answered Winch's challenge by rushing Pearson's ICA Act -- "the most drastic labor legislation ever passed in Canada" -- to the legislature, a full year ahead of schedule. According to the Vancouver Daily Province, Winch's antics paid off: "[So] great [was] the pressure from organized labor for the CCF Trades Union Bill that Liberal members [felt] they must deal with the labor situation without delay."⁵⁹

Under the new ICA Act, all disputes between workers and their employers which threatened to disturb the industrial peace were subject to compulsory conciliation and arbitration proceedings.⁶⁰ If the government-appointed conciliation commissioner was

unsuccessful in bringing about a resolution, the dispute would be referred to an arbitration board consisting of a representative of the workers, employer, and the state. The arbitration board was to function like any "Judge of the Supreme Court," with the power to summon witnesses and conduct extensive inquiries.⁶¹ Unlike the Supreme Court, however, the arbitration board was not bound by conventional rules governing the admissibility of evidence: "The Board may accept, admit, and call for such evidence as in equity and good conscience it thinks fit, whether strictly legal evidence or not."⁶² Nor were the proceedings under the act to be deemed "invalid by reason of any defect of form or any technical irregularity."⁶³ In the event that the workers were not satisfied with the arbitration board's decision and strike action appeared imminent, they were required to provide the government with fourteen days notice before they were legally able to do so.

For Pearson, the preservation of industrial peace pivoted on the notion of "responsible" and "irresponsible" unionism. "There is a wrong way and a right way to use the right to organize," he told the House in his staccato speaking style. "There [has] been evidence in BC of men attempting to use that right in a manner which brought distress and hardship."⁶⁴ Pearson understood that compulsory conciliation and arbitration would not solve the "strike question" completely. The legislative coup was to make it all but impossible for the "Communitistic elements" to gain a foothold in BC to begin with. Thus, in addition to the machinery of conciliation and arbitration, section five of the Act granted trade unions the right to organize and bargain collectively with their employers while upholding the legality of company-organized unions, providing employers with the legal leeway to avoid negotiating with militant trade unions.⁶⁵ Whereas the Wagner Act was

drafted with the express purpose of equalizing an imbalance of power in the workplace which had shifted drastically in favour of employers during the Depression, the intent of the ICA Act was clearly far more limited.⁶⁶

The writing of section five came at the behest of a strong employer lobby that was launched during the weeks between the first and final reading of the bill. In a letter dated 10 December 1937, Wendall B. Farris, prominent Vancouver lawyer and Liberal Party functionary, wrote to the Minister of Labour informing him that a delegation of prominent employers had met with the Premier to discuss the ICA Act, and that amendments to section five had been agreed upon.⁶⁷ "I have now had the opportunity of discussing the matter with a number of the group," he told Pearson. "I believe they are beginning to realize the wisdom on your part of introducing the present act."⁶⁸ In terms of section five, he continued, "my advice to my clients is that the act as now drawn is in their best interests."⁶⁹

As drawn, the Act embodied Pearson's sacred principles of responsible and irresponsible unionism. By not recognising trade unions as the sole legitimate bargaining representative of working people, employers were quite within their rights to create company unions in order to marginalize militant organizations such as the CIO. According to the Premier, this was the objective of the new legislation. "The Minister [of Labour] has taken the position that while employees have the right to name individuals who are not employees as their representatives, they may not name an outside union as their representative, though the individuals may be officials of such," he wrote.⁷⁰ Though section five was far more ambiguous than earlier drafts which restricted executive union

positions to British subjects, for Pearson, the message to union activists was clear: work hard, bargain in good faith, and do not dare disturb the industrial peace without the government's permission.⁷¹

Less than two weeks after it was given first reading, the ICA Act became law. Percy Bengough was incensed with Pearson's move to make conciliation and arbitration compulsory. "Trade Unionists are not asking for compulsory arbitration. In fact there is no such thing. When compulsion is introduced, arbitration ceases," he wrote to the Minister. For Bengough, compulsory arbitration represented an unwarranted encroachment by the state on the affairs of trade unions, a move that would effectively eliminate strike action and compel working people to seek change through the ballot box and not the trade union movement.⁷² Section five permitted the creation of company associations at the expense of legitimate trade unions and workers "can only bargain with their employers as individuals or as groups of individuals, through the agency of what, in the final analysis, must be termed a company union," Bengough claimed.⁷³ In a letter sent to Pattullo the following summer, he railed against the restrictive quality of the new legislation:

Had [the ICA Act] been drafted by the most rabid opponents of trades unionism, they could not have done better. The bill is an absolute negation of all the rights and privileges that trade unions have enjoyed throughout the dominion of Canada for over 70 years, and by enacting such legislation the attitude of the government is decidedly in opposition to the trade union movement.⁷⁴

On a deeper level, for Bengough, the legislation was an affront to the age-old tradition of craft unionism which held that collective bargaining was a private activity

between unions and employers. He certainly wanted government intervention, but only in so far as it provided trade unions with the legal protection necessary to "safeguard the interests and improve the conditions of the workers in [BC]." Not only had the state failed to outlaw company unions, but with its compulsory provisions, the ICA Act turned collective bargaining into a public activity to be conducted by institutions within a framework completely controlled by state agencies.⁷⁵ While Bengough's defense of trade union rights was certainly apt, with the expansion of the liberal state into the area of industrial relations, it was, too, a swan song for pure-and-simple collective bargaining.

Like Bengough, the leadership of the BC Coast District Council was also irate. With rhetoric reminiscent of "Third Period" denunciations of "social fascism," a front page editorial in the Lumber Worker chastised the Pattullo government for their complete subservience to the logger barons:

The voices of the...[loggers]...have raised to such a pitch as to threaten the profits of the logging magnates and the tranquillity of their parliamentary mouthpieces, raised to such a pitch that the department of labour was forced to act...True to form [the] Department acted to silence the protesting voices, and conjure a halo of righteousness around the boss loggers.⁷⁶

Arbitration was not to be trusted, the editorial argued, as the number of cases won by workers could be "counted on the fingers of one...hand."⁷⁷ Compulsory union registration was a hallmark of fascism. "All that we ask is legislation that will grant us the right to organize, that will stop the victimization of men for their union principles," it concluded.⁷⁸ In the wake of the CIO's tremendous advance south of the border, the BC leadership of the IWA had pinned their hopes for an organizational breakthrough on the creation of a Canadian Wagner Act. However, the ICA Act owed no conceptual debts to Roosevelt.

"[T]hey have the Wagner Act which makes it a penalty for the employer to refuse to bargain with the employees as an organized body; they have a national labor relations board which is definitely sympathetic to the trade union movement..." local leader Hans Peterson observed. "We have a labour act which is so drafted in the interest of the employer in conjunction with the government to make the work of organization a hundred times more difficult."⁷⁹ Although the legislation did not protect trade unions, District President John Brown advised other local leaders to forge broad alliances with progressive organizations in order to make use of the limited opportunities that the Act did provide.

As Brown argued,

In the past we have followed the lines of least resistance, and most of our strength has been in the smaller camps and factories of the industry. We must carry our campaign of organization into the large basic outfits, such as Fraser Mills, Chemainus, Port Alberni Mills and the large Association Camps. Under the new Act, I believe this can be accomplished. Whenever we are sure of a majority vote in any operation, then we must crack down for an agreement under the Act.⁸⁰

Brown knew that such an opportunity would soon be at hand, as a dispute between the lime mine and sawmill workers on Texada Island and the Pacific Lime Company appeared imminent.

CHAPTER TWO

In 1907, the Blubber Bay Lime Syndicate, later renamed the Pacific Lime Company (PacLime), built its first kiln, warehouse, and dock at Blubber Bay, on the northern tip of Texada Island. At the centre of its operations was the "glory hole," a massive open face mine nearly 250 feet deep that opened above thick, undulating beds of pure limestone.¹ The extraordinary presence of the mine was echoed in place names such as Lime Kiln Bay and Smelter Road. And, too, in the verse of a local poet:

The shadows fall -- and at the mine
The pit with black of night is filled;
And by the shores of placid lakes
The swallow's sweet song now is stilled
'Til morning sun.²

The miners who worked in the pit climbed down a series of treacherous vertical ladders to their work stations, and "[i]f anything went wrong [down] there, they just put 'em in the lime sling and brought 'em [back to the surface] in the lime sling." With their pickaxes, shovels, and pitch forks the workers extracted raw lime from the earth, loading it into metal carts which travelled a network of pathways and boardwalks to the massive kilns which overlooked the harbour.³ Some miners wore wooden shoes as the lime easily seeped through the leather soles of regular boots. "The lime ate through everything," one miner recalled later, "[it] worked between fingers and into armpits, burning wherever the skin was tender."⁴ On the surface, the greyish blue rock was roasted until it turned brilliant white and became a pure lime which was later exported to the BC Lower Mainland, Washington, and California. The dense yellow smoke produced by the burning

process killed off most of the surrounding vegetation, inscribing the presence of the mine, like a scar, on the island's rocky shores.⁵ Beside the quarry was a small sawmill which produced lumber for local markets, the tillings from which were used as fuel in the lime kilns.⁶

PacLime was not the first company to mine the natural resources of Texada Island; as early as 1860, aspiring capitalists were crossing the Strait of Malaspina in pursuit of gold, copper, and iron ore. According to Cecil May, author of *Texada*, a local history commissioned in honour of the island's centenary, "prospectors, miners, and loggers have always been the basis of the population on [the island]."⁷ At the turn of the century, the island was a small but bustling centre of economic activity, with seven mines encircling the largest village, VanAnda, and agricultural, logging, and sawmill operations at Gilles Bay exporting materials to markets throughout the Pacific Northwest. At that time, VanAnda was the centre of the island's social life, boasting the only opera house north of San Francisco.⁸ By the early 1920s, however, most of the mines had closed, leaving PacLime and the production of lime from limestone as the primary source of waged labour on the island.

Clustered around the Pacific Lime Company's operations and the government's ferry docks was the small community of Blubber Bay. On the west side of the harbour were houses that white workers, many of them married, or living with their families, rented from the company. Each one was virtually the same, distinguished only by their uniformity: peaked roof, wooden porch, picket fence, gravel lane way, and small garden, so close to the sawmill that the men could walk to work, so close that their families could

hear the hum of whirling saws, gears, and chain drives.⁹ The single transient white workers lived in small houses in VanAnda and Lime Kiln Bay. On the opposite side of the bay, perched atop a rocky bluff, worn and broken by the unrelenting action of the ocean, was the large two storey bunkhouse where single Chinese men lived.¹⁰ The majority of PacLime's employees were Chinese; hired by labour contractors, many of them had worked at Blubber Bay since the completion of the Canadian Pacific Railway in the late 1880s.¹¹ For their rent of one dollar per month, the company provided light, fuel, and water. There were no showers for them to wash in after a day in the pit and raw sewage often seeped from the latrines into nearby grass.¹² Many of the Chinese workers tended their own gardens and raised ducks, chickens, and pigs in order to avoid the limited selection and high prices at the company store. There were, of course, few other options. In addition to a company store, PacLime built tennis courts and maintained the roads and docks. The Post and Customs Office, bank, hotel, police station, jail, school house, and telephone and telegraph services were all housed in company buildings.¹³ For many years, the only medical service available on the island was that provided by company doctors.¹⁴

Blubber Bay was a company town; it was very small, isolated, and dominated by a single employer. The ability of PacLime to order the social and spatial relations within the community was extraordinary and virtually uncontested. Its power rested on its monopoly of the local labour market, its immense presence in the day to day lives of working people and their families, and its ability to respond quickly and effectively to any challenges to its authority without fear of prolonged worker resistance.¹⁵ Between 1908 and 1936, there was but one incident of labour unrest, a short strike orchestrated by the Chinese

employees in the 1920s to protest changes in working conditions.¹⁶ "I am given to understand on that occasion, the Chinese received from officials of the Company very harsh treatment," one government official recalled.¹⁷ On 23 July 1937, however, such peaceful labour relations came to an end. The quarry workers organized under the banner of the fledgling Lumber and Sawmill Workers Union (LSWU, later the IWA) to protest a series of wage reductions instituted by the new company manager, P.J. Maw. Not surprisingly, Maw was in no mood to bargain and raised the red scare in an attempt to dissuade his seemingly loyal employees from joining the LSWU:

Please understand that we refuse absolutely to deal in any way with an organization that is known to be Communist directed and which is, therefore, engaged only trying to satisfy its own interests without any regard for the Workers themselves; as history and recent British Columbia strikes have demonstrated.¹⁸

After a six week strike, PacLime officials conceded a modest wage increase and promised to negotiate with a committee of employees, though they steadfastly refused to recognize the LSWU as the sole legitimate bargaining representative of the workers. They also agreed to refrain from discriminating against men who were active union supporters during the strike.¹⁹ "No sooner had the ink dried on the agreement, however, than the company began their dirty tricks," local union leader Jack Hole wrote in the Lumber Worker. "First this man and then that who had been active in the building the union...was picked out for discrimination."²⁰ It is not surprising that Hole was particularly upset in this regard, as he himself was fired on 22 December for his participation in the strike. Secure in the knowledge that the union enjoyed the overwhelming support of the workers at Blubber Bay, yet concerned that PacLime "was endeavouring to force upon the

employees a committee chosen by the Company," Hole requested that the Department of Labour send a conciliation commissioner to Blubber Bay under the auspices of the seven-month-old ICA Act. Hole was determined to win a collective agreement with the Pacific Lime Company. It was his hope that with the assistance of the state, the LSWU might overcome the company's resolute resistance to unionization.

The conciliation and arbitration hearings were the site of the legal debates between union, company, and state officials. The union claimed that section five of the ICA Act granted working people the unconditional right to organize and greater control over the work process. Company and state officials maintained that the statutory provisions of the Act should not encroach on the highly-prized, and to them natural, hierarchical and exploitative relationship between employee and employer. At stake were not simply work-related grievances as they pertained to Blubber Bay, but the legal definition of the Act itself, and, by extension, the organizational future of the IWA in British Columbia.

With the failure of the ICA Act to bring about a peaceful settlement, the struggle for unionization shifted to another site of class conflict: the community. During the dispute the union and company found themselves at odds over rights of mobility and access, and the use of strategic spaces such as the government wharf, roads, and school house. Without question, PacLime's immense authority in Blubber Bay rested on its ownership of the means of production and its complete control over the use of private property within the community.²¹ Thus, in order to crush the strike, PacLime attempted to control these sites within which a collective working-class opposition was likely to develop. Here, too, class conflict was fought on legal terrain as the common law notions of private property

and public access provided the important categories through which both the union and PacLime articulated their opposing political positions. Taken together, both the arbitration proceedings and the struggle within the community illuminate the constitutive role of law in mapping different, albeit related, sites of class struggle where competing understandings of legality and, by extension, visions for the proper ordering of society were fought out.²²

Shortly after Hole made his request to the Department of Labour, conciliation commissioners William McGeough and James Thomson boarded a Union steamship and headed to Texada Island, a trip they would make several times that winter in their bid to maintain the industrial peace. Although McGeough and Thomson were able to bring about an agreement on several minor issues, they were unable to resolve the most vexing of problems – the union's demands for recognition, the closed shop, and the reinstatement of workers fired for union activity. Writing to the Minister of Labour in April of 1938, McGeough recommended that the government send an arbitration board to Blubber Bay.²³ Pearson agreed and dispatched Judge J. Charles McIntosh to Blubber Bay to chair an arbitration board consisting of PacLime official R.D. Williams and local union leader Frank Leigh.

Unlike the informal investigations carried out by the conciliation commissioners, the arbitration hearings were a structured affair, in which company and union officials called witnesses, launched cross-examinations, and communicated in the formal, official tones expected of court proceedings.²⁴ In their opening submission to the Board, Frank

Leigh argued for an interpretation of section five that recognized the equality of employer and employee. The leadership maintained that

the time has passed when the question of association was debatable....The employers decide on what terms the products of industries shall be sold to the public and the employees claim an equal right to decide on what terms their services shall be sold to the employers. The employees of a corporation in association are a party in a contract with the employer for the purpose of selling their service and labour to the employer and are in no way an inferior party, for without them business, which the contract of employment makes possible, could not be operated.²⁵

For union leaders, the legality of trade unionism was not open to debate; it was their right as an equal partner in a labour contract. The workers "are presuming that they have a legal and moral right to organize," they proclaimed. It was a position which flowed from a fundamentally different sense of the way things "ought" to be: "it is not kindness the employees want, it is justice." At issue, therefore, was not the legality of trade unionism per se, but only the extent and legitimacy of the IWA's support at Blubber Bay. In this regard, counsel for the union, CCF Member of the Legislative Assembly (MLA) Harold Winch, went to great lengths to demonstrate that the union was supported by the majority of workers at PacLime as demonstrated by an election supervised by McGeough and Thomson earlier that month.

Company officials, however, were not convinced that they were required to recognize the IWA as the sole bargaining representative of their employees. "This company agrees to bargain collectively with its own employees thru [sic] a Committee elected by the employees as a whole," they maintained, "it being understood that the Company does not recognize any affiliation between its employees and any outside

union." Having enjoyed three decades of labour peace, PacLime was clearly not interested in dealing with a union committee, let alone one connected to Communism. Wrapping itself in the Red Ensign, the company declared that "the union is not a Canadian union but is controlled in the U.S. by the CIO organization."²⁶ Ironically, PacLime itself was also based in the US, the majority of its shares held by the Niagara Alkali Company of New York.²⁷

In an attempt to further quash the union, counsel for the company, H.I. Bird, claimed that union leaders had coerced the workers, especially the Chinese, to support the union's programme, arguing that "the company is not satisfied that the Chinese have done anything on their own volition."²⁸ In support of this claim, the company presented the plight of Tong Yim, a worker who, according to one company official, left Blubber Bay because of union intimidation. Company manager Maw testified that:

I was here when the Chinese No. 47 reported. I went to see this man on the wharf. He was in terrible fear. He told us that he had been threatened, that he would be put in a barrel and dumped....He was in such fear he was almost "out." We put him in the Company house. The police retrieved his effects. He went to town. He made the remark: "No union."²⁹

During cross examination, Winch demonstrated that "Chinese No. 47" was in fact a member of the union and thus had no reason to be worried. Maw was clearly caught off guard. "I did not know No. 47 was a member of the union," he said, "the Occidental has no idea of that which goes on in the Oriental mind."³⁰ Despite such claims about the limitations of his own knowledge, Maw did not doubt his ability, or that of other whites, to represent the true essence of Asian beliefs. For Maw, the "Oriental mind" was mysterious and easily persuaded, qualities which bolstered his position that the Chinese

did not choose to support the union but were coerced by white Communists. "The Union majority so frequently referred to by Mr. Winch [was] obtained through the Chinese employees," the company argued in its final submission, "the one group of the Company's employees who are most susceptible to regimentation."³¹

The union leadership was clearly not impressed with the Company's allegations of coercion, taking particular offence with their attempt to differentiate between white and Chinese workers. "We point out that the Union is a Democratic Organization," they wrote in their rebuttal, "and the Chinese consistently attend union meetings, have a free voice in the proceedings and vote on every motion or policy."³² Furthermore, "in light of their rights as workers, and their equal status under the law, there can be no differentiation between a worker, whether he be white, yellow, or black."³³ Local union leader Jack Hole understood the strategic importance of advocating the legal equality of white and Asian union members given that Chinese workers represented the majority of the union's support at Blubber Bay. Indeed, for the district leadership of the IWA, the legal struggle taking place at Blubber Bay was inextricably linked to the international's ability to unionise non-white workers throughout the province. Properly interpreted, the ICA Act would provide the union with a vital tool to overcome employer discrimination within sawmills and logging camps. The sawmills were particularly important to the District Council because they employed the great majority of Chinese workers who toiled in the lumber industry. To crack such large operations, then, would bring a tremendous increase in dues paying membership and provide the financially strapped District Council with the funds to embark on a more ambitious organizational programme. Organizer John McCuish

understood the importance of the campaign on Texada Island, remarking to members of the District Council that "there is not an Oriental in BC today who is not looking forward to victory at Blubber Bay."³⁴

In addition to union recognition, workers attempted to gain greater control over the work process at Blubber Bay. The Pacific Lime Company's operations included the extraction of raw lime and the firing of massive kilns, as well as lumber milling, barrel making, boat loading, trucking, machine operation, and general maintenance. The organization of the work process was characterized by a well-defined racial division of labour. Whites occupied the skilled positions within the sawmill, while both whites and Chinese workers worked in quarry, boat loading, and general repair work, though, on average, whites received higher wages for similar work in the quarry.³⁵ It had been the "custom of the management, and concurred in by the employees generally, that when the staff is reduced the work is divided among the men by a system of rotation."³⁶ In recent years, however, the company had consulted several efficiency experts and the entire work process was being reorganized in the name of increased productivity.

In this regard, the union leadership demanded that job-sharing be preserved, especially in the area of boat loading, and that all boat loading crews consist of equal numbers of white and "Oriental" labour. As well, they insisted that the Company establish a minimum wage of 45 cents per hour for both white and Oriental workers and that the company agree to hire union men only.³⁷ Racial parity in boat loading was tremendously important, they argued in their final submission, because, there were many married white men that needed to work in order to support their families.³⁸ Not surprisingly, counsellor

Bird steadfastly refused all of the union's overtures, remarking that such demands were "designed to draw control from the company and place it in the hands of the [union] Committee."³⁹ For company officials, job-sharing and the closed shop represented an encroachment on the rights and privileges that traditionally belonged to masters, not servants, and PacLime reserved "the right to hire and fire in the exercise of its discretion and the best interests of the company."⁴⁰

After weeks of negotiations, the arbitration board's decision was a complete repudiation of the union's agenda. In particular, their decision refused to grant the IWA an exclusive seat at the bargaining table, offering instead the creation of a "grievance and negotiation committee" consisting of union and non-union workers and company officials who would "dispose of any matters which... affected the general working conditions and the welfare of the organization."⁴¹ The proposed agreement allowed workers to organize while simultaneously limiting their choices to "responsible unions," or in this case, company associations. As well, the board granted a modest wage increase and ordered the company to re-employ workers -- including union leaders -- dismissed for union activity. That the Board refused to recognize the IWA as the sole collective bargaining representative of the employees is not surprising; it was, after all, in keeping with the government's intention of maintaining industrial peace by heading off the growth of industrial unionism in the province. "The purpose of the Act is to bring about settlement of disputes...by discussion, deliberation, and conciliation in order to avoid extreme action," Pattullo said in a radio address, "a strike is a form of civil war, and in my opinion, instead of being the first weapon to be used, it should be the last."⁴²

While the Wagner Act empowered working-people to organize, at least in the period before the Taft-Hartley amendments,⁴³ the ICA Act failed to redress the tremendous imbalance of power which existed between employers and workers thereby ensuring that it survived into the modern world of collective bargaining.⁴⁴ Indeed, the Board's decision to deny the IWA the right to represent workers was rooted in a historically specific world view which upheld employers as figures of authority to be treated with loyalty and respect, considered hierarchy in the workplace necessary and just, and viewed collective activity with suspicion.⁴⁵ Moreover, by granting the union a modest wage increase, the Board was not staking out a new interventionist role in the area of wages. Rather, Judge McIntosh was simply reaffirming the role of the free market as the only index of fair wages:

I cannot see how it would be helpful at all to the Board to enable us to arrive at the proper payment of wages to the men [by considering] what the company is or is not earning; in other words, the men do certain work in the company's employ, and they are entitled to a certain wage. Whether the company makes a million or loses a million, it is no concern of the Board.⁴⁶

In short, the Board was not a neutral arbiter of two competing interests; indeed, embedded in its decision were the conditions necessary for the preservation of capitalist social relations.

The IWA district executive was infuriated with both the award and, in particular, with the ineffectiveness of Harold Winch during the Board's proceedings. "[Winch] should have been deeply suspicious of the...objectionable clauses," District President Jack Brown opined in the People's Advocate. "The assistance of MLAs in labor disputes is valuable and welcome but it is a dangerous practice to turn the union's business over to them."⁴⁷

Tod McLennan echoed Brown's frustration, arguing in a stern letter to Attorney-General Gordon Wismer that the creation of a grievance and negotiation committee violated the workers' right to elect their own representatives by a majority vote. McLennan was not calling into question the legitimacy of the ICA Act; rather, he was challenging the board's interpretation of the infamous section five:

Our council is seriously concerned with the situation at Blubber Bay, realizing that it may involve the entire labour movement of British Columbia....Therefore, for the sake of industrial peace, we are requesting you...to use your influence to have...a decision in conformity with the Act...brought down.⁴⁸

"Once an Arbitration Board is appointed," Wismer deftly replied, "they are an independent body having functions of a judicial nature, and the Government can in no way interfere."⁴⁹

In his opinion there was nothing spurious about the Board's decision to prevent the unionization of Blubber Bay; it was, after all, in keeping with both the letter and intent of the law.

The District Council's first brush with the machinery of collective bargaining was a complete disaster. "If [the Act] had been interpreted to the word,...it might have been a factor in bringing about organization. [Pearson] has seen fit to interpret the act the way he sees fit," President Brown contended.⁵⁰ Unlike their American counterparts who enjoyed tremendous growth under the auspices of the NLRB, the District Council was unable to secure an agreement under the ICA Act.⁵¹ "Our gains...to date have been nil," Secretary McLennan concluded, "no other union has given this [legislation] a better try-out." To which organizer Arne Johnson replied: "It seems to me we put too much faith in [the act]."⁵² Despite such scepticism, no local leaders or members of the District Council

executive called for a categorical rejection of state involvement in industrial relations. They were not arguing against the new regime of industrial relations, but about it, calling into question the interpretation of the law, not its utilization. As Hans Peterson, President of Local 71 in Vancouver, remarked just weeks before the union's annual convention: "Every effort should be made to utilize the [ICA Act]."⁵³

Back in Blubber Bay, the award was posted in the company bunkhouses and distributed throughout the community in both English and Chinese. On 18 May 1938, government and company officials, union leaders, and workers attended a large meeting at the local schoolhouse where the award was finally put to a vote. After several speeches and some discussion, the workers voted overwhelmingly to reject the Board's decision. The local union leaders justified the vote by declaring that the decision violated their right to collective bargaining.⁵⁴ In a last-ditch effort to broker a peaceful settlement, the Department of Labour sent McIntosh back to Blubber Bay. According to Jack Hole, McIntosh was able to persuade company officials to eliminate the offending clauses from the original decision. However, "when it came to working out a plan for the reinstatement of the 23 blacklisted men, the company crossed up, [protesting] that they must protect their loyal employees...."⁵⁵ It was at this time, "having no other alternative...to bring about an amicable settlement," that the workers elected to go on strike. On 2 June, 102 of the 156 employees at PacLime walked off the job.⁵⁶

With the rejection of McIntosh's decision the struggle for union recognition shifted from the arbitration hearings to the community where the union and company battled over access to, and use of, certain strategic spaces within Blubber Bay.⁵⁷ PacLime responded

swiftly to the workers' challenge by posting eviction notices in the Chinese workers' bunkhouses and threatening to remove several white workers from company houses.⁵⁸ Initially, the workers in Lim Yim's bunkhouse refused to leave, prompting company officials to wire Victoria for assistance:

Our Chinese employees at Blubber Bay refuse to vacate bunkhouses after due notice STOP propose to effect removal of these men after eight AM Friday morning using only necessary force to effect purpose STOP contemplate resistance which may result in breach of peace STOP urge that adequate force of police be immediately available to prevent breach of peace[.]⁵⁹

The Provincial Police came to the aid of the company which they would do frequently over the course of the strike by escorting the Chinese workers to the wharf to await the next Union Steamship.⁶⁰

Shortly after the eviction of the Chinese workers, company officials and their police escorts attempted to remove Elizabeth Maylor from her home. Maylor, whose two sons were on strike, was a long-time resident of Blubber Bay; her home was built by local workers after the death of her husband, a one-time PacLime employee. "I was afraid to open the door," she recounted later, "but asked [the company manager] to leave the [eviction notice] at the door....This he refused to do, but raised his voice...in a threatening fashion [insisting] that I open my door....I again refused."⁶¹ Speaking to a union lawyer, her son, Roy Maylor, described his experience of being beaten and robbed by strike breakers in the presence of the police while he was walking to the store for groceries.⁶² "On the way [to the picket camp] we stopped at Mrs. Maylor's house," a strike supporter recounted in the Powell River Town Crier. "We were told that the inmates had nothing to

eat for some 24 hours, not having dared to step outside."⁶³ It was an incident that would later be highlighted in IWA posters and handbills which combined chivalry and nationalism to encourage greater support for the strike:

A COMPLAINT IS BEING LAID...AGAINST ACTIONS OF THE POLICE WHO STOOD BY WHILE COMPANY OFFICIALS ATTEMPTED TO EVICT A WIDOWED RESIDENT....Her two sons are on strike, and the company has been trying to drive her from her home, hoping to intimidate her sons back to work....This is only a sample of the tactics of the New York owned Pacific Lime Company.⁶⁴

Other tactics included restricting access to local roads that linked white workers' homes to the government wharf, and requiring children who wanted to continue attending school during the strike to present a pass signed by company official P.J. Maw.⁶⁵ Telephone and telegraph services housed in the company offices were declared off limits, unless one was accompanied by a police escort.⁶⁶ The People's Advocate reported that PacLime's entire operations were encircled with barbed wire.⁶⁷ Clearly, it was an attempt to quash the strike by eliminating those spaces within which union members could mobilize in order to contest the company's power.⁶⁸

With the company mobilizing to "carry on its operations to the best of its ability," IWA officials searched for strike supporters, scouring the skid road area of downtown Vancouver for unemployed men who would accept a few dollars in exchange for a trip to the island and some time on the picket line. With the assistance of the Ladies Auxiliary, union secretary Tod McLennan canvassed community and church groups for donations of food, eventually securing tons of vegetables for the strikers, while the Vancouver Trades and Labour Council and the B.C. Maritime Workers Federation considered refusing to

handle Blubber Bay lime.⁶⁹ In Blubber Bay, a picket camp was set up tucked away in a meadow one kilometre from the Pacific Lime Company's operations. There, the Chinese strikers slept in tents and ate at a makeshift soup kitchen run by Lim Yim, joined occasionally by white union supporters from VanAnda, Powell River, and Vancouver.⁷⁰

Years later, IWA organizer John McCuish remembered his time there:

Them strikers stuck with it right through, and I tell you what they lived on. There was a lot of Chinamen. These Chinamen went ouht [sic] on the docks and on the rocks they caught rock cod. They killed deer. There were quite a few pheasant on the island and they lived mostly on that. That island was full of little deer. I don't think any of them would dress over 60 pounds. But they were around there thick.⁷¹

The union's mobilization retained the racial divisions which marked the social geography of the community. In the early months of the dispute, white unionists picketed the government wharf each time a steamship came to call, while Chinese strikers were responsible for keeping the picket camp in order.⁷² When Yim Lim later became ill and was unable to continue his duties as cook, local officials sent word to Vancouver to see if "another Chinaman" could take over.⁷³

The racial divisions within the camp would change over the course of the dispute, however, as Chinese workers were needed to bolster a picket line weakened by the arrests of several white unionists for obstruction of justice and common assault after a scuffle on the government wharf with replacement workers and police on 20 July 1938.⁷⁴ The clash occurred after the Union steamship Capilano arrived at Blubber Bay. Awaiting the ship on the government wharf was a crowd of nearly 40 strikers and their supporters -- some mingled, others marched. As the gangway was lowered, the group surged forward to

to meet the replacement workers who were arriving under police supervision. Union member Yim Kee stopped to speak with several strikebreakers as they attempted to sidestep the crowd. According to rookie police constable Thomas Campbell, Kee attacked one of the scabs, "showering" him with "blows" about the face and head. "[W]hile carrying out the arrest [Kee] kicked me on the shins and drove his elbow into my stomach,"

Campbell reported later:

the women and white pickets were shouting encouragement to the chinese [sic] to keep on fighting the police. These chinese [sic] were endeavouring to take Yim Kee away from me, and while I was struggling...I was struck...on the side of my head....I was momentarily dazed....At this time [Officers] Martin, Hulme, and Ellis were occupied in quelling the shouting pickets.⁷⁵

The ensuing melee resulted in the arrest and conviction of fifteen unionists and their supporters.⁷⁶

That such a pitched battle between police and strike supporters took place on the dock is not surprising; it was, after all, the principle access point to the island, a site where replacement workers arrived and lime was loaded on ships for export to regional markets. Since the success of strike action depended on the union's ability to prevent both the arrival of new labour and the export of Pacific Lime products, control of the dock was absolutely crucial. It was perhaps the most effective way to immobilise the company and force a new collective agreement. In the context of Blubber Bay, the wharf was also a highly symbolic place, a monument to the company's fantastic ability to shape the social relations of everyday life. To seize the dock, then, was to challenge the very basis of PacLime's

immense political and economic power: its ability to carry on its business and its authority over the use of space within the community.⁷⁷

With the eviction of Chinese workers, restriction of access and mobility within the community, arrests of strikers, and the arrival of replacement workers, the local Executive and District Council stepped up its efforts to secure the support of other unions and progressive allies. They also hired a young politically active labour lawyer named John Stanton.⁷⁸ A member of the Communist-led Canadian Youth Congress and future member of the Communist Party of Canada, Stanton was called to the bar in 1936 where he would represent working people and their unions for the next forty years.⁷⁹ Stanton worked closely with Jack Hole and CCF MLA for Comox Colin Cameron, defending strikers charged with unlawful assembly and rioting and challenging the activities of the police, the company, and the state. His first item of business was the retrieval of personal belongings left behind by the Chinese workers after their eviction earlier that summer. "Aside from [the] comparatively minor question of you having evicted my clients illegally...is the more serious matter of their chattels," Stanton wrote to company superintendent Oswald Peele. "[They have not been returned] to their rightful owners in spite of repeated demands."⁸⁰ PacLime officials had no intention of returning the clothes, tools, and food in question, arguing that the employees were given plenty of time to pack their belongings and vacate the bunkhouses. "They had eleven days notice, didn't they?" a company lawyer retorted.⁸¹

As a result, Stanton, Colin Cameron, and strike supporters Lim Yim, Joe Yim, and Joe Eng, went to Blubber Bay in order to retrieve the goods. By entering the bunkhouses

without permission from company officials Stanton was challenging PacLime's authority over private property and, in this particular instance, he believed that the common law was clearly in the union's favour:

When anyone has been unlawfully deprived of his goods he may lawfully reclaim and take them wherever he happens to find them but not in a riotous manner or attended with breach of peace, although he can justify an assault made for the purpose of recapturing after demand and refusal....⁸²

The young lawyer and his entourage were promptly arrested for trespassing and questioned by Constable Williamson in a small company house which also served as a jail.⁸³ "The whole incident did not take more than ten minutes," police Sergeant T.D. Sutherland reported to the Attorney-General. "It was obvious that the episode had been planned and Williamson showed good judgement [by not charging them] and defeated their purpose."⁸⁴

Sutherland was the commanding police officer in Powell River and in charge of the small detachment assigned to Texada Island. He often walked the beat in Blubber Bay himself and even monitored union leaders' telephone calls. In a letter to the Attorney General, he reported that after their arrest,

Cameron...got on the phone and he and Stanton talked to [CCF MLA for North Vancouver] Grant McNeill [sic]. For your confidential information I might point out that a check is made on such calls and the conversation in part is as follows....⁸⁵

Sutherland went on to provide a verbatim account of the entire discussion, concluding that "these men are unscrupulous and that their aim is to get publicity at our expense....In spite of all their telegrams, phone calls and letters of complaint regarding the Police,...the officers here have behaved splendidly."⁸⁶ His report reveals that strike supporters were

under close surveillance by police informants. Indeed, just days before Stanton's scuffle with Williamson, Sutherland had instructed two of his "splendid" officers to attend a meeting of strike supporters in VanAnda organized by MacNeil. Shortly after, he wired the contents of MacNeil's speech to Victoria:

MacNeil [sic] remarks were directed against the government, the police and Pacific Lime Co and he appears to have dealt only with the strike, decrying authority and suggesting that the strikers could not lose. I consider an officer should be on duty at such public meetings in public interests.⁸⁷

MacNeil was incensed by such a blatant attempt by police to intimidate "local residents who might be suspected as sympathizers for the strikers."⁸⁸ The Attorney-General assured him that they were only doing their duty and were attending the meeting at the request of certain "residents [who] objected to the use of the school for a political meeting."⁸⁹

Without question, such intimidation was an expression of raw class power. In this particular instance, not only was Stanton unable to enter the company bunkhouses without being arrested, but strike supporters were not allowed to use the phone, certain roads, or the school house in Blubber Bay without special permission from company officials or the police. Elizabeth Maylor knew this. So did Colin Cameron, as he wrote:

In general the situation here is wholly intolerable - the general public can get no satisfaction from the provincial police who are very evidently taking their [orders] from the Pacific Lime Co....Unless speedy action is taken to put a stop to these occurrences the repercussions may be serious.⁹⁰

Indeed, this was an attempt by company officials, with the assistance of the police, to eliminate those spaces within which unionists and their supporters were likely to foment their oppositional challenge.⁹¹ For the company, the maintenance of class relations was inextricably linked to its control over the use of private property within the community.⁹²

After lengthy discussions with residents of both Blubber Bay and VanAnda, Stanton protested to both government and Pacific Lime Company officials. He demanded that the strikers be granted the "right to full and unrestricted access" to the telephones, the post and customs office, and the roads connecting their homes to the government wharf.⁹³ "Aside from the fact that, nominally at least, you do not employ the police and have no right to say what their duties shall or shall not be," Stanton wrote to Superintendent Oswald Peele, "it is quite out of order for you to make such rulings."⁹⁴ By insisting that they were "out of order," Stanton was not suggesting that the company transgressed a particular government statute or regulation. Rather, he was accusing the company of violating the workers' shared understandings of what was 'just' behaviour:

In former years it was the custom of the company to keep the road open as a public thoroughfare, and to close it only on one day each year, thus indicating that the road was private property....I am therefore writing to you to ask whether...any ruling has been made as to the rights of residents to have free access.⁹⁵

The chief engineer at the Department of Public Works informed Stanton that the road in question was "apparently a private road" and, despite custom, the government could not "force the company to throw it open even for public use."⁹⁶

The legal distinction between public and private spaces was equally important to Stanton's exchange with the Ministry of Education concerning the accessibility of the local school house to strike supporters and their children. "The company has ruled that after 5 p.m. the school ceases to be a public place and can be used for company purposes," Stanton wrote to the Minister of Education. As well, children travelling to school had to pass through company property and, since the beginning of the labour dispute, were

"required to have passes signed by management."⁹⁷ What is the jurisdiction of the Ministry, Stanton asked, "and will you also let me know what status the school grounds enjoy when they are not defined by any fence -- i.e where they may be said to begin, and where they end?"⁹⁸

Stanton's request for a more precise mapping of these spaces was anchored in the experiences of local residents who shared conceptions of customary rights of usage, which historically meant unrestricted access and movement within the community.⁹⁹ For company and state officials, however, notions of "public" and "private" were inextricably linked to the rights associated with the ownership of property, a legal relationship which effectively disempowered and exploited propertyless wage workers in the name of capital accumulation and labour peace. That workers and company officials were at odds over the legality of such actions reveals that the spaces in question were not simply empty geographic containers, but were invested with considerable political and ideological significance.¹⁰⁰ Indeed, it was a conflict over the proper legal definition of space that would be used to regulate and give meaning to social life.¹⁰¹

In order to re-establish traditional rights of access and mobility, Stanton made a formal application to the Provincial Secretary to have Blubber Bay declared a "company town" in accordance with section three of the Company Towns Regulation Act. The Act stated:

Where any one hundred or more persons employed by any company in or about any industrial operation or business carried on by the company are living or sojourning on lands owned, occupied, or controlled, either directly or indirectly, by the company, the Lieutenant-Governor in Council may, by

Order,...declare those lands together with any adjoining lands...to be a "company town"....¹⁰²

Although such a request may at first appear peculiar, according to the Act, ironically, the legal status of "company town" brought with it a clarification of spatial relations:

...in any company town...every member of the general public shall have the right at all times, without further license than the provisions in this Act contained, to use and enjoy all those roads, streets, and ways as free and uninterrupted rights-of-way, ingress, egress, and regress for persons, animals, and vehicles, loaded and unloaded, for all purposes....¹⁰³

In response, the Provincial Secretary offered, upon receipt of a "proper description of the area," to consider the matter further.¹⁰⁴ Stanton's efforts were an attempt to secure the customary geographies of social life -- to secure "justice" -- through the structured legal channels of the state.

Although this appeal may seem somewhat conservative -- a return to the way things used to be -- at this particular moment of class conflict, such customary rights of mobility and access posed a considerable challenge to the company's capacity to limit strike action. The ability of unionists to gain access to a telephone without the presence of police informants and to a meeting place to discuss strategy and forge solidarity was crucial to the development of a more powerful opposition to the company. To call into question the spatial relations within the community was to challenge one of the most obvious manifestations of the company's political power, power which was rooted in its control of property.

In September of 1938 another confrontation on the dock erupted. This time the struggle for control produced not only arrests but tremendous violence, bloodshed, and

for one man, death. As a result, Stanton's attempt to restore customary spatial relations was abandoned because his time and legal knowledge was needed to defend strikers charged with assault, unlawful assembly, and rioting. His actions, however, reveal that the law was deeply imbricated in the important day-to-day routines of social life, mediating their expression within a spatial context.¹⁰⁵ Indeed, concealed within legal praxis were a multitude of geographies; in this particular instance, the public and private spaces -- "the encompassing and encaging spatializations of social life" -- associated with the historical development of capitalism.¹⁰⁶

Throughout this moment of overt class conflict, union leadership, rank-and-file workers and their supporters were enmeshed in a web of legality, walking, as E.P. Thompson has written, within "visible or invisible structures of law."¹⁰⁷ The ICA Act existed alongside the common law notion of assault and obstruction of justice; the Company Towns Regulation Act challenged the legal categories of private access and public space rooted in property ownership; the rights of landlords ran roughshod over the tort of possession. Clearly, the law did not rest on any particular level of activity. In the words of Thompson, the law "was at every bloody level;...it contributed to the definition and self-identity of both rulers and of ruled; above all, it afforded an arena for class struggle, within which alternative notions of law were fought out."¹⁰⁸

The crucial point, though, is not simply that the law was everywhere, but that its enforcement shaped the timing and spacing of human activity to produce, what one scholar has called a "unified economic space," one which guaranteed the maintenance of production, the discipline of workers, and the accumulation of surplus value.¹⁰⁹ At its

ideological core, the ICA Act was deeply suspicious of collective behaviour, reified the free market, and sought to protect, not alter, the age-old exploitative relationship between master and servant. At the same time, by entering and centrally coordinating the activities of labour and capital through its own modernized infrastructure, it represented a new interventionist role for the state in industrial relations. The Act's power, then, was both coercive and ideological: it possessed the remarkable capacity to prevent the unionization of Blubber Bay, and provided the union leadership with a new legal vocabulary to describe and interpret class politics. This system of knowledge erected limits and set boundaries to what was considered possible for the union and ultimately supplanted a more incisive critique of the province's political economy and the legal regime of which the Act was apart.¹¹⁰ Taken together, the application of the Act and the enforcement of the social geographies of property ownership facilitated the maintenance of capitalist social relations on the island.

There were undercurrents of possibility. Indeed, state intervention and employer repression often elicited sophisticated and immediate responses from working people, illuminating the immense potential of localized or community-based notions of justice. At times competing notions of what was "just" behaviour emerged, standing in stark contrast against the formal, structured mechanisms of dispute settlement: "[We] have a legal and moral right to organize," the union argued before the arbitration board; it was "custom of the company to keep the road open," Stanton maintained in the face of employer intimidation. In the summer of 1938, however, such challenges were largely unsuccessful as the sheer might of both PacLime and the state, backed by the full weight

of the law, overwhelmed the fledgling local. As the summer of 1938 came to a close, union lawyers found themselves before the Assize courts as dozens of union members stood trial for unlawful assembly and rioting. It is to the Assize courts that we now turn.

CHAPTER THREE

We meet today in Freedom's cause
And raise our voices high;
We'll join our hands in union strong,
To battle or to die.

Hold the fort for we are coming--
Union men, be strong.
Side by side we battle onward,
Victory will come.

Look my Comrades, see the union
Banners waving high.
Reinforcements now appearing,
Victory is nigh.¹

With these words, the Blubber Bay strikers greeted the steamship Chelohsin as it pulled into the harbour on 17 September 1938. Against a backdrop of hand-painted banners that proclaimed "Strike on Here" and "No Scabs Wanted," residents marched across the government wharf to prevent the arrival of replacement workers.² "Here come the scabs among us," union member Robert Gardner shouted as the gangway was lowered, "look boys, here come the scabs!"³ Sergeant Sutherland and the other constables were anxious for they had witnessed this scene before and knew its violent potential well.⁴ "I told [Jack Hole] to get his men to their own side of the dock otherwise there would be trouble," the sergeant recalled later.⁵ As the police waded into the crowd to prevent the unionists and strike breakers from colliding, a fight broke out, then another, until the entire wharf was engulfed by the anger, frustration, and disappointment of the past 12 months.⁶ The police officers, many of whom were in Blubber Bay for the first time, drew their clubs and reached for their tear gas canisters in an attempt to clear the dock and

restore order. With the choking gas hanging fresh in the air, the struggle spilled on to nearby roads, where picketers and strike breakers lobbed rocks at each other.⁷ Windows were broken; so were bones. Late that night eleven strikers and company men were admitted to hospital in Powell River. Just as quickly as the melee had begun, it dissipated into the night, marking the beginning of the final phase of the struggle at Blubber Bay.

When word of the riot reached the strike and relief committee in Vancouver, Colin Cameron left immediately for Blubber Bay, followed two days later by Harold Winch, John McCuish, and Stanton.⁸ In union circles, rumour had it that the police action was "premeditated and prearranged" and that a subsequent attack, this time on the picket camp, was about to be launched.⁹ In an urgent telegram to Cameron, Stanton urged the strikers to take "all measures necessary to repel."¹⁰ There was no subsequent attack by police, however, only the mass arrest of 23 union members on charges of unlawful assembly and rioting. The IWA's allies were quick to show their support for the besieged local. The morning after the riot, 40 members of the Pulp and Sulphite Workers Union (PSWU) in Powell River arrived in Blubber Bay to offer comfort for the strikers. "Our men are not going to put up with any more police violence," union secretary Stubby Hanson warned Sutherland. "If it continues, 400 of us will be back and we won't fool around with you bastards."¹¹ Later that week, the PSWU sponsored a massive public meeting in Powell River where a crowd of over 1000 people gathered in Dwight Hall to hear Colin Cameron, Grant MacNeil, and Liberal MLA for Powell River Mel Bryan speak about the events taking place across Malaspina Strait. Bryan attempted to defend the police and the ICA Act, calling the legislation the "best start the province had yet made toward governmental

interference in labor disputes."¹² Amidst persistent calls for his resignation and chants of "we want Cameron," Bryan cut his speech short, and the popular CCF MLA stepped to the rostrum. The boos gave way to a thunderous ovation. "Drunken scabs are running hog wild at Blubber Bay," Cameron said. He went on to pillory Bryan for his failure to act on behalf of his constituents and called for a full judicial enquiry into the conduct of the police at Blubber Bay. As Cameron and Bryan sparred in Powell River, over sixty seine boats carrying 450 fishermen pulled into Blubber Bay and dropped anchor, clogging the small harbour until early the next morning.¹³ With their roving searchlight beams the fishermen looked for scabs upon the rocky shore. It was a powerful act of solidarity; indeed, it was an attempt to hold strike breakers in the spotlight of public criticism and disgust. Later, as the seiners pulled away, the lead boat "let out a raucous screech" from its horn indicating that they "would be back if needed."¹⁴

While the government wharf was the primary theatre of violence during the strike, the struggle to keep replacement workers from Blubber Bay was extended to the high seas the morning before the public meeting in Powell River. That day McLennan, Stanton, and Grant MacNeil were travelling to Blubber Bay on board the Chelohsin to brief strikers on the most recent legal and political developments in the strike. "While the three of us were discussing [our] reports after supper in our small cabin, Tod got up and left," Stanton recalled later. "He was a big man, powerfully built. After an absence of not more than two minutes, he returned and washed his hands a number of times as we went on talking."¹⁵ While he was out on deck, McLennan had discovered three men with lime on their shoes.¹⁶ They were replacement workers. He beat them up. Shortly thereafter, a police launch

pulled alongside the Chelohsin and there, in the white glow of the cabin lights were McWhinney, Grieg, and Dawson, the "would-be scabs," lying unconscious on the deck.¹⁷ McLennan was taken by police and charged with causing "grievous bodily harm," joining a long list of unionists already on the court docket. Grieg and McWhinney were taken to St Luke's Hospital for treatment¹⁸ and days later, the Town Crier provided McLennan's exploits with front page coverage: "Gangster Tactics Allegedly Used Aboard Chelohsin."¹⁹

The violence of 17 September and subsequent demonstrations of working-class solidarity prompted the Provincial Police to step up their surveillance of suspected "subversives" both in Powell River and Vancouver. Informants were particularly concerned with the "Left Wing" element of the PSWU, the "Chinese Communists," the "old-time militants" and the "20 or so `reds' now returned from [the civil war in] Spain" who are looking to get "back into the `fray'...."²⁰ The skid road area of Vancouver was under close scrutiny, specifically, "Con Jones' gambling hall, 50 West Cordova St., 130 West Hastings and in fact any place that idle `Left Wingers' hang out."²¹ The police feared that the riot at Blubber Bay "was just the beginning of trouble up there" and that "a general strike of all "Woodworkers' Union" (CIO) [was] being urged and `Trades Unions' [were] being approached to back up the strike Committee [in Vancouver]."²²

But there would be no general strike. As September came to a close, 15 of the original 23 unionists charged with unlawful assembly and rioting were committed to trial, while others faced charges of assault and causing grievous bodily harm.²³ Among those arrested were the men who brought the union to Blubber Bay including local leaders Hole and Gardner, as well as members of the District Council responsible for the co-ordination

of relief and broadening support amongst the union's progressive allies. As a result, the strike was nearly decapitated. There were but a handful of pickets left in Blubber Bay and the company's lime production was on the rise. Even the sawmill, which had been closed since the strike of 1937, was exporting small quantities of lumber to regional markets. The District Council responded to the state's offensive by pressing counter-charges against the scabs for their participation in the melee and Constable Williamson for an alleged beating of unionist Robert Gardner. In addition to weakening the IWA's campaign on the ground, the arrests shifted the union's struggle from the community to the courts. The trials of the Blubber Bay 15 provide another example of the state's relentless attack on the collective opposition mounted by Local 163; they are the focus of this chapter.

With mounting fears that the court cases might bankrupt the poverty-stricken District Council, the strike committee in Vancouver instructed the remaining pickets to apply for government relief in order to supplement their paltry strike pay and elected to re-open negotiations with PacLime.²⁴ On the advice of Judge Charles McIntosh, the former chair of the Arbitration Board, the Attorney-General postponed the trials. McIntosh feared that the court cases might revive the "bitterness" of the past and effectively "prejudice possible settlement."²⁵ On 5 October the strike and relief committee nominated Colin Cameron to lead a new bargaining team which consisted of Hole, Stanton, Arne Johnson, and Frank Lundstrum.²⁶ With International President Pritchett in attendance for the first time since the strike began, they drafted a "memorandum of conversation" that outlined the conditions under which the union would agree to resume negotiations with PacLime. According to the memo, union recognition was no longer the main issue; indeed, no longer

would it "stand in the way of [the] men returning to work."²⁷ The union's position had changed significantly since June when it rejected the Arbitration Board's unanimous decision because it failed to recognize the IWA as the sole collective bargaining representative. In the face of employer intransigence and state repression, demands for union recognition atrophied and the reinstatement of blacklisted workers emerged as the single most important issue. Clearly, the union was on the defensive.

In response to the union's revised position, company officials agreed to rehire only 12 of the 106 employees currently out on strike.²⁸ Of the 12 men guaranteed reinstatement, not one was among the 27 union men dismissed after the 1937 strike²⁹ because they were, after all, the men responsible for initiating the struggle to establish a union in Blubber Bay. The new secretary of the District Council, Frank Lundstrum, was irate. "It is clear that you are anything but sincere in your professed desire to negotiate, no self-respecting union could accept an offer such as yours," he wrote to H.I. Bird.³⁰ It was a message later repeated on radio station CKMO as the union borrowed five minutes of airtime from the People's Advocate to expose "the attitudes of the company" and their attempt to "destroy the morale of the men by insincere negotiations."³¹ Despite optimistic reports from Jack Hole that the company's "absurd offer only served to strengthen the morale of the men," the utter failure of the ICA Act to facilitate a settlement, the upcoming trials, and the onset of winter, did not bode well for union members and their supporters still trying to "hold the fort" in Blubber Bay.³²

Meanwhile in Victoria, the CCF wasted no time in pushing for a full judicial inquiry into the Blubber Bay debacle.³³ With sworn affidavits in hand, Colin Cameron accused the

provincial police of recruiting strikebreakers for PacLime, failing to protect unionists from scab violence, and carrying out an attack on the union picket line. According to one statement, during the strike Sergeant Sutherland, who in addition to his duties as a police officer was also a relief inspector, secured employment at Blubber Bay for several unemployed men from Gibsons and Sechelt.³⁴ The "provincial police were used to carry out the anti-labor policy of the Pacific Lime Company," Cameron told the House, "that is as plain as the nose on one's face."³⁵ His tirade against the police was given plenty of ink in one of the Vancouver dailies:

Mr Cameron does not look like the kind of man to fight the class war. If you were to close your eyes you would think his accents were those of an English barrister, practising in rather dull civil suits....But when he gets out of his memorized purple passages, when he gets going on the class war, he makes you think of the insistence of a terrier that won't be shaken off....This wasn't the traditional pointing with pride and viewing with alarm, the pumped-up, synthetic party stuff. This was the stuff of class struggle, the basic economic issues that...are being fought out...all over the world today. It wasn't pleasant to have reality thrust upon us so suddenly like this.³⁶

Harold Winch likened the behaviour of the police on 17 September to the rise of fascism in Europe. Dictatorship "always commences with an attack on the liberties of the people and the answering of their needs with force," Winch told the House, "just as these things forced it in Europe, we can see it travelling through Canada."³⁷ In a speech to party faithful in Vancouver, Grant MacNeil compared the situation in Europe -- "Chamberlain's dickering with the dictators" -- with the strike at Blubber Bay, remarking that it was crucial to "[observe] the principles of democracy in our own back yard, before we try to talk about them internationally."³⁸ It was a position echoed by Fergus McKean, Provincial Secretary of the Communist Party: "Hitler tactics must not be tolerated here. Organized labor in BC

must rally as one man to the support of the Blubber Bay workmen. Everyone who believes in civil liberties must add his voice to the protest."³⁹

Despite the CCF's impressive show in the House and a strong recommendation by the Attorney-General for an investigation into the conduct of the police, the Premier defended Sutherland and his officers against the "subversive elements" at work in Blubber Bay.⁴⁰ "Our police are an important organization. They command the respect of the public," he announced in the House, "what kind of police do you think you'd have if they were afraid of a judicial inquiry every time they acted."⁴¹ The Premier went on to chastise the "real enemies [of] the general public welfare" who were willing to go to any "extreme," including the fabrication of affidavits, to "gain control and subrogate the rights and civil liberties of our people to the control of ruthless extremists."⁴² It was a position echoed by the Minister of Labour, who accused the IWA of scuttling the honest work of the arbitration board by taking "the matter into their own hands."⁴³

The public debate between the Liberals and CCF traded heavily on the distinction between fascism and Communism. While Cameron and Winch endeavoured to tap public anxiety concerning the spectre of Hitler and the possibility of another European war, Pattullo's trenchant defence of the police was rooted in the collective sense of uncertainty which gripped residents of British Columbia after the "Bloody Sunday" riots which took place in June 1938. For six weeks, hundreds of unemployed men occupied the Vancouver Art Gallery, Post Office, and Hotel Georgia in Vancouver to protest the conditions of work camps and low levels of relief. Despite government promises of a negotiated settlement, the protest was quashed by police and the disillusioned protesters went on a rampage

through the streets of downtown.⁴⁴ Days later, the Mayor of Vancouver, George Miller, asked city residents to stand with him in opposition to the "Communists" and "revolutionaries" bent on "disrupting the peace and defying the police."⁴⁵ The Mayor certainly understood the symbolic power of the riot, and later that year it was the watchword of his campaign for re-election: "Forward Vancouver: PROGRESS OR CHAOS."⁴⁶ Similarly, for Pattullo, the images of bloodied tin-canners, a blanket of broken glass, and the pernicious presence of Communists provided a stunning example of just how close Vancouver was to the edge of upheaval and the need to maintain police authority during this period of uncertainty.⁴⁷ Indeed, it was believed that a judicial inquiry would seriously weaken the power of the police at a time when the government needed it most, especially, given the Communist threat, if they were required to perform similar duties in the future.

While Pattullo took to the rhetorical ramparts to defend law and order, Sergeant Sutherland, Oswald Peele, and others connected with the alleged recruiting of strike breakers filed affidavits with Stipendiary Magistrate Parkin in Powell River. In his signed statement, Sutherland steadfastly denied Cameron's allegations: "I understand it is a relief officer's duty to contact employers with a view to getting employment for relief recipients. This is exactly what was done and after the strike was declared no men were recruited by me." According to the statements made by Peele and Constable John Melville Hicks of Powell River, however, Sutherland attempted to locate additional unemployed men on 7 June, five days after the strike began.⁴⁸ An examination of Sutherland's own police reports reveal that he recruited 14 relief recipients to work in Blubber Bay in April of 1938.⁴⁹ While

it was not until 2 June that Local 163 voted to go on strike, it is important to recall that in April several men were dismissed for union activity. In this regard, by assisting PacLime in its efforts to secure non-union labour, Sutherland helped to enforce the company blacklist. In fact, it was this discrimination against union members which was responsible, at least in part, for the dispute at Blubber Bay to begin with. Thus, Pattullo's defence of the police and public denunciations of the Communist "evil-doers" masked a police force intimately involved in union busting. Indeed, his carefully selected words displaced all questions concerning the utter failure of the ICA Act to recognize working people's right to organize while simultaneously valorising the police as the defenders of peace, order, and good government. It was a pattern of debate which would be replicated at the trials of the Blubber Bay 15, as the state attempted to diffuse the threat -- both real and perceived -- posed by organized labour and maintain its legitimacy during this period of intense scrutiny and potential upheaval. With no chance of a judicial investigation and the collapse of negotiations between the IWA and PacLime, the Crown moved to have the strikers brought immediately to trial. In order to proceed as efficiently and effectively as possible, the Attorney-General Gordon Wismer, decided to try the Blubber Bay strikers as a group.⁵⁰

The decision to charge the unionists with unlawful assembly and to proceed with a group trial is significant because it allowed the Crown to attack the collective nature of the workers' action, and by extension, the basis of the union. Like the intimidation of unionists within the community, the law of unlawful assembly was about the elimination of dissident political practice; it was about who could advocate what, and perhaps more importantly, where. The Attorney-General had the option to proceed with charges of

common assault against key players in the strike, but it was the public and collective nature of the workers' actions, not the injuries sustained by specific individuals, that posed the greatest threat to constituted authority and therefore deserved to be prosecuted and severely punished. For the Crown, the trials of the Blubber Bay 15 served two important objectives: they successfully eliminated the subversive threat at Blubber Bay and sent a powerful message to British Columbians, specifically "irresponsible" trade unionists, about the dangerous and illegitimate nature of mass action. With this in mind, it is not surprising, then, that the Premier chose to raise the red bogey in an attempt to publicly ridicule and delegitimise the union's struggle. Without question, these trials were deeply political; understanding how those politics worked is the focus of this discussion.

Upon hearing of the Attorney General's intention to try the men as a group, Crown counsel Angelo Branca informed Wismer that since the strikers were charged separately and committed to trial at the preliminary hearings as individuals, the Crown could not try them as a group. It may be more convenient, he told Wismer, but it could result in the "misdirection and misreception of evidence" against the defendants and, upon appeal, a mistrial.⁵¹ Branca was no friend of the Blubber Bay strikers; John Stanton certainly did not care for him, often referring to him as "that fascist."⁵² In "view of the seriousness of this trouble in the Province," to try the strikers as a group was certainly preferable, Branca wrote; however, in this particular case it was not entirely legal.⁵³ Wismer rejected Branca's position, citing an obscure precedent which held that the court may simply amend such technical "defects" contained in the indictments and "proceed with the trial."⁵⁴ Thus, the

proceedings against the Blubber Bay 15 would continue as planned: one striker would be tried alone as a test case, followed by the remaining offenders in groups of four.

For the union, the effect was this: since the same jury would hear each of the Blubber Bay cases, witnesses would be forced to admit taking part in "various [aspects of] the melee which would have a tendency to influence the jury" in their own trial.⁵⁵ Moreover, the composition of the groups would have a profound effect on the jury's perception of each individual defendant. Consider the group of Jack Hole, Joe Jacobs, Robert Gardner, and Roy Abercrombie, Stanton said to Colin Cameron,

as you know,...Jacobs has...a lengthy record, which dates back to his time before he entered the Labor [sic] Movement. The obvious intention in trying him together with the three others is to secure a conviction of Hole and Gardner[,] the leading members of the union.⁵⁶

The arrested strikers filed a petition with Wismer, requesting that he use his "good office to have these cases tried individually so that justice may [be] administered in a fair and impartial manner."⁵⁷ Their request was denied. On 12 November 1938, the first unionist, Ronald MacDonald, appeared before Justice Denis Murphy at the Fall Assize.

A criminal trial is a highly structured, dramatic affair. At the front of the court room is the judge, elevated and clad in a dark robe, who looks on, as the lawyers, also dressed in dramatic costume, parade before the court and weave their elaborate tales of guilt and innocence. In this particular case, Murphy's reputation as an extremely learned and devoted guardian of law and order imbued the highly mannered proceedings against MacDonald -- an alleged Communist -- with an added sense of gravity and importance. Murphy, who was appointed to the Supreme Court in 1909, was also a one-time Liberal

member of the provincial legislature and lecturer in constitutional law at the University of British Columbia (UBC).⁵⁸ The supporting cast in this legal drama consisted of two people that Murphy was very familiar with: Counsel for the Crown was Angelo Branca, a former acquaintance of Murphy's from UBC; and Paul Murphy, his son, who was Branca's assistant.⁵⁹ The Blubber Bay strikers were represented by E.A. Lucas and John Stanton.

At a criminal trial, both the Crown and the defense provide an account of "what happened," and in doing so each "reconstructs the facts and redefines the law so as to give the story [of what took place] a particular meaning."⁶⁰ Or, as one scholar has observed, "judges and jurors are not witnesses to the events at issue; they are witnesses to stories about the events."⁶¹ In the end, however, one story, or legal narrative, is accepted, approved and "transformed into fact" while others are "distrusted, rejected, found to be untrue, or perhaps not heard at all."⁶² What makes a particular account of "what happened" more believable than another? Many writers have argued that the most effective legal narratives possess a poetic quality, not in form, but in content.⁶³ Like a good poem, a powerful legal narrative connects with a judge and jury in a compelling, visceral way. As John Steffler reminds us, when narratives

catch and burn as we want them to, they are taking us back to the first recognition and naming of a thing, to something like childhood wonder, a sense of our own lives and the surrounding world as possessing depth and being charged with meaning and potential discoveries, a sense of energized understanding.⁶⁴

As the Blubber Bay trials reveal, however, that poetic quality, the jurors' "energized understanding" of the dockside riot, pivoted on notions of class difference. It was the

Crown's remarkable ability to construct the struggle for unionization at Blubber Bay as a clash between the forces of law and order and the chaos associated with collective working-class action which made their case believable. Indeed, by weaving a narrative which connected the details of 17 September with a reality the jurors (and public) could see and feared to lose with the rise of the CIO, the Crown successfully convicted twelve of fifteen picketers.

While a lawyer's imagination and rhetorical skill are essential to constructing a convincing legal narrative, such stories are often held tightly in check by the institutional framework, rules of evidence, and the provisions of the criminal statute in question. In order to secure a conviction of unlawful assembly, for example, the Crown needed to demonstrate that at least three people congregated on the wharf with a common purpose in mind and that members of the community who possessed "reasonable courage and firmness" were convinced that a breach of the peace was imminent. Thus, the Crown's legal narrative could not be just any old tale, but one which satisfied the conditions necessary for conviction. In addition to the legal forms set out by the criminal law, such stories are also shaped by other legal conventions, such as the judge's intervention in the trial and, perhaps most profoundly, by the charge to the jury. It is in this final address that the judge sets out what is important, what is not, and what is at stake in the trial. Taken together, both legal forms and the traditions of the court have a profound impact on the making of a legal narrative, and, by extension, the meting out of "justice." As Kim Lane Scheppele has observed: "To make sense of law and to organize experience, people often tell stories. And these stories are telling."⁶⁵

Like Pattullo's pious cant in the House, the prosecution's case against MacDonald was rooted in a defence of the police, and by extension, the need for law and order in society. Not surprisingly, then, Branca and Murphy placed great emphasis on the testimony of provincial police officers, in particular Sergeant Sutherland. Sutherland spoke at length about the tense relations between pickets and police which characterized the fourteen month labour dispute on the island. He alleged that the pickets often used "abusive and insulting language in the hopes that the officers would lose control of themselves." "We are accustomed to such tactics," he wrote in his police report, "and expect nothing better from the mob when they get excited."⁶⁶ Given the pickets' past behaviour, Sutherland arranged to have five extra officers on hand for 17 September, increasing the Blubber Bay contingent to ten.

On the night of the riot, "I planned to keep the pickets on one side of the dock and the workmen, if they came down [from the boat],...on the other side of the dock, with the police between them," the Sergeant told the court. "The idea would be to avoid trouble."⁶⁷ As the boat pulled alongside the wharf, Robert Gardner shouted to its passengers in an attempt to identify potential scabs⁶⁸ at which time Constable Williamson took Jack Hole by the arm in order to clear a safe passage for the scabs. While Hole was being dragged to "his side" of the dock, the union leader turned to the crowd and announced, "the dock is yours."⁶⁹ Shortly thereafter, amidst pushing and shoving, a punch was thrown and the melee started. It was then, over by the equipment shed, that he noticed Constable Ellis being dragged off by the pickets and savagely beaten. The Sergeant went on to testify that it was only after the pickets refused to clear the dock that he authorised another constable

to use tear gas to restore order. As the pickets scrambled up the road to escape the choking gas, they showered replacement workers with rocks, who, by this time, were cowering behind a garage. And where was MacDonald in all of this? According to Sutherland, "I saw him among the pickets on the wharf."⁷⁰

Sutherland's testimony provided a solid factual base for Branca and Murphy upon which they would mold their rhetorical superstructure. For the prosecution, the police were honourable men placed in a situation of great danger and thus were forced to quell the disorderly pickets with tear gas. It was an image furthered by Constable Daniel MacDonald, who testified that only provincial police intervention saved employees of the Pacific Lime Company from serious injury at the hands of the union pickets. It was a compelling revelation, one which both Vancouver dailies turned into headlines: "Provincial Police Action Saved Workers" wrote one; "Only Police Saved Blubber Bay Workers," the other.⁷¹

For the most part, the coverage of the trials in both the Sun and the Province was unspectacular, at times only revealing who testified and when the case was scheduled to conclude. When the police were battling the forces of evil, however, the daily court columns ballooned with the all the sordid details. This was particularly true after Constable Ellis testified that he was beaten unconscious by several of the pickets. Under a cut-line which read "Constable Says Boot In Stomach Knocked Him Senseless," the Province reported his evidence at length:

Roy Abercrombie grabbed hold of my riot stick and twisted the thong. Others pushed me from behind. I got pulled into the shed and there was quite a struggle. I went down. They began kicking me. I believe the

accused was one of the men....Eventually I was kicked in the stomach. That was the last thing I remember. I came to in the police barracks.⁷²

The prosecution went to great lengths to further this image of the strikers as a mean and dangerous bunch, a motley crew of Chinese workers and known agitators for whom law and order was not important. The watchword here was "CIO." Whenever the union was mentioned, Branca was quick to remind the court that it was an affiliate of the CIO; when prosecution witnesses identified the defendants they made special mention of their CIO badges and buttons; when the arrival of strike supporters from Vancouver was described, Branca described them as "imported CIO pickets."⁷³ Even the strikers' makeshift tent city was referred to as the "camp that the CIO built."⁷⁴ One writer at the Lumber Worker understood the strategic importance of such references, insisting that it was a "clumsy attempt to paint the Blubber Bay Local 163 I.W.A. as some imported subversive, terrorist, organization."⁷⁵

Clearly, small details were important. Crown witnesses often spoke of the insulting songs that pickets sang while they marched on the dock; they were particularly taken by one verse which spoke of "hanging all policemen from a sour apple tree." Such songs were depicted as crass, derogatory, and above all, threatening. "Did you really think the strikers meant it when they sang they would hang you from a sour apple tree?" Lucas asked Constable Martin. "I did," he retorted.⁷⁶ Hearing this, Stanton passed Lucas a note: "He has been in Blubber Bay long enough to know that there are no sour apple trees there."⁷⁷ Botanical details aside, for the Crown such seemingly innocuous ditties were symbolic of the pickets' disregard for constituted authority. Indeed, through such rhetorical devices,

the CIO had become synonymous with disorder. By importing such a rag-tag group of men, the Crown argued, the union had demonstrated its intention to carry out a common purpose, namely to cause trouble in Blubber Bay.

In order to secure a conviction for unlawful assembly, however, the prosecution had to demonstrate that people of "reasonable courage and firmness" feared that the assembled group would "disturb the peace tumultuously." To this end, the Crown called Mrs. Gibson, Mrs. Simpson, and Mrs. Rittenhouse, long time residents of Blubber Bay, to testify that they were terrified by the gathering of union pickets. "When I heard the men starting to fight, I put out the lights," Mrs Rittenhouse said, "we thought that [the strikers] were preparing to raid the house. We got out three guns and ammunition. There were rocks falling in our vegetable garden." The Province was particularly taken by the plight of Mrs. Rittenhouse, framing its report of her testimony with a bold headline which proclaimed: "Woman Tells Of Riot Terror."⁷⁸

While it is likely that Rittenhouse, Gibson, and Simpson were scared at the site of the melee, it is also important to note that the only three women to testify against MacDonald were called upon to speak of their "fright" and "feelings of terror."⁷⁹ This was no mistake. Indeed, it was a deliberate attempt by Branca and Paul Murphy to exploit notions of female frailty to cast the male strikers in a threatening and terrorizing light. In the context of the prosecution's larger narrative, the women's testimony dovetailed nicely with the image of the police as brave, decisive, masculine heroes, the chivalrous defenders of law and order.⁸⁰ It was necessary for the prosecution to demonstrate that the gathering of pickets scared local residents and with the testimony of the "sisters of misery," as

Stanton called them, they did so with considerable force. With the image of Mary Rittenhouse barricaded in her home ready to do battle with the strikers still fresh in their collective minds, the jury prepared itself to hear quite a different story.⁸¹

Stanton and Lucas attempted to rework completely the Crown's narrative, arguing instead that the entire riot was planned by the police in a vain attempt to "clean house" at Blubber Bay. The Lumber Worker sketched the broad contours of the union's position with characteristic subtlety: "Police and scabs were drunk and the melee on the government dock...was provoked by police and scabs and had all the earmarks of having been planned in advance...."⁸² Judge Murphy was clearly not impressed with the defense's position. "Are you seriously suggesting through the witness that the police were in a conspiracy to provoke a riot and ambush the strikers?" he asked.⁸³ "That was definitely part of the plan to get these strikers out," Lucas replied.⁸⁴

Murphy's interjection is not at all surprising; for him, the rule of law, properly administered, was the handmaiden of liberty and the foundation of constituted authority. The "defence of [our] institutions...is the sacred duty of every citizen," he once told the Washington State Bar Association, but "it is peculiarly the duty of the Judiciary and the Bar,...for our calling in life, of necessity, makes us the ultimate arbiters...."⁸⁵ Murphy had little patience for communism, socialism, "or any other "ism" that [ignored] the fundamental traits of human nature."⁸⁶ For him, the rule of law was man's highest achievement; it was the essence of liberalism, of Pax Britannica. To challenge its legitimacy was to call into question the very basis of civilised society. Clearly, the defense's position

was going to be a tough sell. By taking on the police, Murphy's defenders of law and order, they were challenging the judge's, and indeed, PacLime's entire world view.

The ideological divide between the judge and the union came into sharp focus during a small debate waged over the use of the word "scab" during the court's proceedings. In this particular case, Lucas was unable to use the word "scab" when referring to replacement workers because the court considered it an extremely offensive and derogatory term which would prejudice the jury. It was position laid bare by Magistrate Filmore during the preliminary hearings in Powell River: "I do not want anything said against anybody. Scabs has been held to be a term that ought not to be applied....Workers, pickets, those are proper names to use. Men are entitled to be picketers and workers."⁸⁷ But not scabs. In union parlance, "scab" was a negative adjective.⁸⁸ Unlike Judges Murphy and Filmore, however, for unionists its meaning was rooted in a deep-seated belief in workers' right to organize, the importance of collective activity, and the sanctity of the picket line. In this regard, the court considered the term "scab" offensive precisely because it embodied an ideology anathema to what Murphy called the "fundamental traits of human nature." This ruling speaks to the immense power of the court to, as one scholar has noted, "exclude and stigmatise -- define out -- all such discourses [which] are inherently recalcitrant to [its] basic belief system...."⁸⁹ By eliminating the use of the word scab, the court naturalized the replacement workers' "right to work" and removed the union's political and moral questions associated with a picket line from the legal debate.

For Stanton and Lucas, the "who started it" question loomed large, for it was after the first punch was thrown that the provincial police carried out their premeditated assault on the strikers. Witness after witness testified that Jack Illot, a PacLime foreman, came down to the dock that night with a group of replacement workers and upon meeting the pickets dared them "to start something." Frustrated when no one would take him up on such an offer, he attacked picket Cliff Melville. Shortly thereafter, Sutherland ordered that a path be cleared for the strikebreakers. Without further warning or hesitation, the officers tossed their tear gas canisters and the strikers were pushed out to the road. According to several witnesses, the replacement workers and the police were intoxicated. It was there, caught between the road and an equipment shed, that the unionists were ambushed by the strike breakers. Lim Yim, one of five Chinese union members to testify for the defense, told the court that the Chinese strike breakers, some of whom were involved in the stoning, were wearing white arm bands so that the police could distinguish between union and non-union workers. The white arm bands were evidence that the police had planned the assault; they needed to know who to club and who to leave alone.⁹⁰

While Stanton and Lucas continued to weave their story of conflict and conspiracy, coverage of the trial in the Vancouver dailies began to die off. Despite the appearance of thirty-six defense witnesses, more than three times the number called by the Crown, the newspapers were satisfied with tepid stories which marvelled at the length of the trial, not the substance of the union's complaints.⁹¹ Among the additional witnesses called by the defence were Mrs. Maylor and union member Blondie Colbourne who testified that on the night of the riot, police officers on board the Chelohsin warned that there was going to be

a "showdown" at Blubber Bay.⁹² For Stanton, such ominous warnings demonstrated that the riot was planned well in advance. "This evidence is so overwhelming that this Jury MUST find that Illot started the fight," he wrote to Lucas,

and from the fact that no damage to lives or property occurred in spite of the overwhelming numbers of strikers on the dock, it MUST also find that pickets did no more than defend themselves from an attack which was plainly premeditated.⁹³

From this perspective, bringing support pickets to Blubber Bay did not prove a common intent to provoke a fight; it was simply regular and proper union procedure.⁹⁴ Such collective activity was not inherently dangerous or illegitimate; rather, it was the context within which the ability to work safely and with dignity was "both realized and made meaningful."⁹⁵ On the contrary, the police were responsible for the disturbance for they clearly planned the attack in advance. They, not the strikers, were the agents of disorder. The unionists were simply defending themselves in a vain attempt to obtain justice.

In his 85 minute charge to the jury, Judge Murphy urged the jurors to consider the evidence in the "cold light of reason." Much of the testimony presented was irrelevant, he said. It did not matter who threw the first punch, when the police ordered strikers to clear the dock, or when the tear gas bombs were thrown. Who was on strike and for what reasons was simply not important. The only relevant question to ponder was whether or not the accused was a member of an unlawful assembly and did he participate in the ensuing riot? To this end, he advised the jurors to consider the change in atmosphere which accompanied the arrival of imported pickets and the importance of the police as keepers of the peace. "It is said that the police were armed with tear gas bombs, when

disturbances occur it is the duty of the police to stop them as humanely as possible....A tear gas bomb may possibly be a humane way to end a disturbance," he added. Indeed, it was men like Sergeant Sutherland who made it "possible for you to sleep in your beds at night."⁹⁶

With this, Murphy effectively delegitimized the defence's account of what took place. The notion that the police and replacement workers might have been irresponsible, might have gone to Blubber Bay looking for retribution, might have caused the riot, was completely discarded. Such a narrative clashed with Murphy's deep-seated belief that it was the responsibility of the police and courts to maintain authority and respect for the rule of law in the face of the union's challenge. "The primary purpose of a criminal trial is not to convict a man and punish him for wrong-doing: the primary purpose is to command respect for the law," he told the jurors.⁹⁷ It was a position he laid bare in the Province earlier that week:

Whatever theorists may say, we know from practical experience in this world that every man and woman has a will of his own and her own, and experience has taught human beings that if they are to live together it is impossible to live in peace unless rules be made and enforced to curtail the absolute exercise of individual will by every member of the community....The alternative ...is anarchy. You have the right to choose between the rule of law and the rule of force; and the rule of force -- from our standpoint -- is anarchy.⁹⁸

In this regard, the trial was distilled into one compelling question: might or right? Against the backdrop of the "Bloody Sunday" riots, it was not simply an abstract legal decision for the jurors, but one connected to their recent lived experiences as residents of Vancouver. Like the riots, the conflict at Blubber Bay was carried out by those bent on "disrupting the

peace and defying the police."⁹⁹ Not surprisingly, then, after less than an hour of deliberation, the jury returned a guilty verdict on both charges of unlawful assembly and rioting. MacDonald was later sentenced to six months of hard labour at Oakalla prison. The decisions were a harbinger of things to come.

Of the 14 remaining strikers who appeared before the Assize court, 11 were convicted. Two Chinese unionists were acquitted for lack of evidence -- one was not even in Blubber Bay at the time of the riot -- as was union supporter Stan Abercrombie, a PacLime employee for 21 years.¹⁰⁰ Abercrombie was the only striker to have an employer attest to his good character and, unlike the other trials, only one police officer testified against him. Even Stanton was perplexed by Abercrombie's acquittal. "Messrs. Rounds and Birchett, one of the Association Loggers, and employers of Stan...retained Frank Hall to fight the case in his defence....I understand from Stan, that Hall told him the case was fixed and he would be released," he told Colin Cameron. "Stan is very emphatic that there was no open sign of anything irregular through his trial." According to Stanton, Sutherland remarked that "Stan was not in the same case as Hole, and ought to be let off."¹⁰¹ This remark speaks to the state's determination to jail union leaders in order to maintain law and order at Blubber Bay, a notion brought into stunning focus during Stanton's counter-suit against the replacement workers on charges of unlawful assembly and rioting.

Like the defence of Ronald MacDonald, the counter-suit hinged on the collective intentions of the police and strikebreakers. According to Stanton, there were more than three of them present on the dock, they intended to carry out a common purpose -- "in

cooperation with police to break the picket line" -- and persons of reasonable courage and firmness, namely the strikers themselves, believed that the public peace would be "disturbed tumultuously."¹⁰² The case never made it past the preliminary hearings. Judge Murphy did not like accusations of police wrong-doing; neither did Judge R.A. Sargent. In his written decision, Sargent expressed his deep concern for the "atmosphere of recklessness which [surrounded] not only the laying of charges, but also the testimony of the various witnesses called by the Crown."¹⁰³ "If perjury is not being committed," he continued, "at least there is a recklessness in giving testimony which makes me feel that these [charges] were laid simply by way of a counter-attack against authority."¹⁰⁴ While it appears from Sargent's decision that the Crown had some difficulty in pulling its case together, his final remark reveals that at its ontological core, laws on unlawful assembly were deeply suspicious of collective opposition and dedicated to the protection of constituted authority through the enforcement of bourgeois conventions of proper public and political behaviour.

While the convictions of the strikers reveals that the law was often an instrument of gross coercion, the subsequent acquittal of Tod McLennan on charges of assault demonstrates that it could, at times, appear to be merciful. As Douglas Hay reminds us, it is this "tempering of severity with mercy" which nurtures the "bonds of obedience and deference" necessary to the maintenance of the law's legitimacy.¹⁰⁵ McLennan was on trial before Magistrate Filmore in District Police Court and was certainly in a sorrowful position.¹⁰⁶ Not only had he beaten up three scabs, but he was also secretary of the District Council,¹⁰⁷ an unabashed and vocal supporter of the "communist" CIO, and known to local

police as an "imported picket" responsible for many "subversive" activities in Blubber Bay.¹⁰⁸ Against the backdrop of the Assize Court trials, McLennan's fate appeared to be signed, sealed, and all but delivered. "I don't suppose that we could make a dicker about Tod's case," Jack Hole wrote to Stanton, "I don't think that he has a great deal of [hope] in beating the charge against him."¹⁰⁹

In late November, Stanton received a letter from McLennan which indicated that Al McWhinney, the prosecution's most important witness, was of dubious moral character.

"Here is the dope," McLennan wrote,

Mcwhinney [sic], the middle sized one with the scar on his face, and whom I believe will be the chief witness, is married and has been threatened with arrest for living off the avails of prostitution of his own wife. In other words, he pimps for her at times....She made a trip about two weeks ago to Cowichan Lake in company of a man now working in the district. There is another guy called Tony whom she took for a fur coat and a diamond ring[.] He worked at Camp 9 Chemainus until recently. Also at one time the pair played a fellow named Pierce, who works at the Elk River Timber Co, for four hundred dollars....I think that if they got the idea we know all about everything and will use it against him in the witness box[,] his own common sense may induce him not identify me in court....¹¹⁰

Stanton immediately requested more information from the Commissioner of the BC Police concerning McWhinney's past record. In a brief reply, the Commissioner's office confirmed McLennan's findings and informed Stanton that the "information requested by you [has been given] to the Counsel for the Crown."¹¹¹ After a short trial, McLennan was acquitted on the most serious charges, receiving only a small fine for bruising Grieg. Stanton was elated with the outcome. "Wonders will never cease," he wrote to Colin Cameron, "we actually won a case."¹¹² To which Cameron replied, "Tod is the only one who has done anything!"¹¹³

Why did McLennan get off? "I don't think McLennan would be such an awful ass as to do such a thing," the Magistrate told the court, "and I must come to the conclusion that the passenger that identified him was mistaken."¹¹⁴ Years later in his autobiography, Stanton reasoned that Tod was acquitted "largely on the evidence of Grant MacNeil who was positive that no one could have beaten up three men in separate parts of the ship in so short a time -- and without injury to his hands."¹¹⁵ While both explanations may in part be true, what about the infamous letter? While what follows is only speculation, it appears that the Defense and Crown counsel, as well as the Magistrate simply decided to exonerate McLennan on the basis of McWhinney's questionable morality. Once the Crown was aware of his past exploits, his credibility as a witness simply evaporated. Indeed, living off the avails of prostitution represented such an egregious violation of acceptable moral and sexual behaviour that if it were to come up in court, the Crown's case was doomed to fail. Both the Crown and Defense council understood that in the moral pecking order of the court, prostitution ranked even below the exploits of a Communist labour leader reviled by Magistrates, police officers, company and state officials alike. By acquitting McLennan, then, both McWhinney and the Crown avoided the public embarrassment which would have accompanied such a sensational revelation as this, and the union finally won a case. At the very least, it is significant that both Stanton and McLennan assumed that such a discovery would improve their chances at securing an acquittal.¹¹⁶ To their minds, sexuality mattered, and in this particular case, it might have mattered more than the defendant's class politics.

In addition to this fleeting glimpse into the gendered dimensions of legality, the exoneration of McLennan helped to maintain "the illusion that even the lowest citizens [were] equal before the law."¹¹⁷ It was a notion reaffirmed by the rare spectacle of Constable Andrew Williamson on trial for the assault of Robert Gardner. The Attorney-General understood the importance of the Williamson case to the integrity of the criminal justice system, remarking to Colin Cameron that "it was not in [his] best interests...or the police force that...Williamson be acquitted."¹¹⁸ The trial was especially important to the Blubber Bay strikers who, after the union's poor showing at the Assize court, had little faith in the law. According to Jack Hole, they were of "the opinion that [the union had] lost so many cases that there [was] little or no chance to get a square deal."¹¹⁹ What little hope remained was clearly focused on the legal fate of "that sadistic cop."¹²⁰ "[I hope] that we can put that dirty big rat Williamson where he belongs," Hole wrote to Stanton.¹²¹ It was a sentiment echoed in a worker's letter to the Lumber Worker: "If the courts are just...he will get time."¹²² Indeed, in order to solidify support for the rule of law, the Attorney-General had to reconcile "popular ideas of justice" with the protection of the police force.¹²³ Without a full judicial inquiry into the activities of the police force, Wismer wanted at least the illusion of reform, not the thing itself.¹²⁴

At the time of the trial, Gardner was in Oakalla prison after his conviction for unlawful assembly. He was not in good health. "Have you seen Bob? Expected a letter from him last night but did not receive one. Hope he isn't sick worse than he was," his wife Mary wrote to Stanton just days before the trial. "Bobby is taking it pretty hard, he is very melancholy. Hope I can snap him out of it before I have to be in town. Bob spoiled

us all and now it is hard on us to be here without him."¹²⁵ In union circles, Gardner's failing health was said to be a direct result of the beating administered by Williamson.¹²⁶ So pained was his appearance at the preliminary hearings that both the Province and Sun court reporters spoke of the great difficulty with which he delivered his dramatic testimony.¹²⁷ Before Magistrate Filmore, Gardner spoke of his arrest hours after the confrontation on 17 September had subsided. He was taken to a company house, which doubled as a jail, for questioning. There were three other pickets already in custody and they played a game of cribbage. Then "Constable Williamson came to the door and said 'Come here, Gardner, I want to speak with you,'" Gardner told the courts, "then he punched me in the ribs. Then he knocked me on the floor and kicked me twice on the right side....He twisted both legs almost out of the sockets. Then he said, 'I'm going to kill you,' and picked up his club."¹²⁸ Joe Jacobs, Ed Stewart, and Peter Bergman, the other three men being held by police that night, testified to hearing the attack and Gardner's "frantic calls for help."¹²⁹

Both Williamson, who testified in his own defence, and Sutherland maintained that Gardner had sustained his injuries during the riot, a subsequent scrap with replacement workers, and repeated attempts to escape from custody.¹³⁰ In a police report filed the day before Williamson's arrest, Sutherland recounted his version of the entire sordid affair:

I asked Williamson to take [Gardner] into a room by himself because I wished to question him. Gardner tried to get out of this room on two occasions and Williamson shoved him back. Gardners [sic] ribs might have hit the bed, either on the first or second occasion, because it appears that three of them are fractured.... The man has given us a lot of trouble and is a known agitator. To a great degree he was responsible for the riot on Saturday night.¹³¹

It is intriguing, if not downright suspicious, that Sutherland thought it necessary to characterize Gardner as a known agitator. To his mind, it was an important qualification which was intended to undermine Gardner's credibility, or, perhaps, to justify the beating administered by Williamson. As Barbara Weinburger has observed, anti-communism within the police often provided a "taken-for-granted framework for decisions" concerning the proper use of force during labour disputes.¹³² Mary Rittenhouse certainly thought so: "It is deplorable of course, if he cracked the man's ribs under arrest," she wrote, "but that striker caused a lot of trouble this summer, and it is not improbable that he may have concealed injuries sustained during the riot...in order to frame the police knowing he was about to be arrested."¹³³

Williamson's defence was contradicted by the testimony of another police officer, constable Daniel MacDonald, and Dr. Murison who treated Gardner in Powell River after the altercation took place.¹³⁴ Officer MacDonald told the court that Gardner was in good physical condition when he was taken in for questioning. Murison detailed the nature of Gardner's condition -- four fractured ribs on one side, ribs bruised on the other side, head and face cuts, bruises to arms and body -- and assured the judge that Gardner's injuries were far too serious to be the product of a fall on the dock. It was this testimony, the considered opinions of seemingly disinterested "independent" witnesses, which convinced Judge Harper that Williamson was guilty as charged. In announcing sentence, Harper spoke of the "civil war" in Blubber Bay and the strong opinions expressed on both sides of the debate. "A good policeman should be a level-headed, disciplined man," Harper said. "It is important to the administration and it is important to the community that the police

should at all times be cool-headed. This is part of their job, and the law must be carried out in a proper way."¹³⁵ And with this, Williamson was sentenced to six months imprisonment at hard labour.¹³⁶

For Judge Harper, Williamson's behaviour was a case of one officer simply losing his cool. The events in question here were plucked from their larger social context, and decided as merely a conflict between individuals -- "sovereign agents of choice" -- thereby ignoring the larger systemic inequalities and struggles which produced the beating of Gardner and the dockside riot.¹³⁷ In this way, like the public debate in the House which turned on notions of Communism and fascism, it preempted a more incisive debate or government investigation into the use of force and abuse of power by the police. Moreover, against the backdrop of the Assize Court trials, this conviction served a larger ideological purpose for the state in that it demonstrated the capacity of the law to be neutral, effective, and determinate. Taken together, Williamson's conviction, Murphy's pious cant about the rule of law, and Pattullo's bloated indignation over the Communist threat, reveal the multifaceted capacity of the state to maintain its legitimacy and the integrity of the rule of law in the face of an organized opposition. Indeed, Williamson's conviction was little more than what one observer has dubbed, an act of "public purification":

With a loud blowing of horns and banging of drums, they decorate the once honourable gentleman with the proofs and symbols of corruption. The newspapers pass judgement,...the court pronounces sentence, the stinking venal mess is carried off to jail,...and the marble hall of government, cleansed of its impurities, regains its customary state of perfect innocence.¹³⁸

CONCLUSION

I've got to say about politics, it's something else, what ye might call a variable, ye cannay predict how the beaks'll respond. Ye're aye better with matters of substance. Politics can make them fling away the rule book, especially if they've found a way to use the word violence, and it isnay up to them to prove there's a difference. Ye have to understand about the law, it isnay there to apply to them it's there to apply to us, it's them that makes it.¹

James Kelman

In the wake of the criminal trials that concluded in January of 1939, Stanton petitioned the Ministry of Justice in Ottawa for clemency for the twelve convicted strikers. Since the "fracas had been prepared in advance by members of the BC Police...in close co-operation with company officials," the sentences were unjust and should be commuted, he argued.² Angelo Branca implored the Chief of Remission Services to deny Stanton's request. In language reminiscent of the trials, Branca described the convicted men as "agitators" and "ringleaders" who possessed both "bitter" attitudes and "bad character" and therefore should remain behind bars.³ From Powell River, Stubby Hanson, secretary of the PSWU, petitioned the Attorney-General to initiate a "democratic investigation" of the entire Blubber Bay affair, specifically the behaviour of the police and the origins of the now infamous riot, "so that the public would know who was really to blame and whether [or not] the convicted men got British Justice or not."⁴ Not surprisingly, the requests for clemency and a new investigation into the strike were denied. The strikers served out their six-month sentences and the strike all but disappeared from public view. In March of 1939, the union voted to reject a proposed settlement that offered to reinstate only

seventeen of the men currently out on strike.⁵ It was the last offer that the union saw. By the end of April, PacLime was "operating with a full or substantially normal [work] force" and the District Council was unable to secure any additional donations to the strike fund.⁶ Despite the occasional appearance of a picket line on the dock at Blubber Bay, the strike was all but over. In May, the union officially called it off.

The IWA paid dearly for the Blubber Bay campaign. Not only did it drain the union of its scarce human and financial resources, but it cost unionist Robert Gardner his life. While in prison serving his time for unlawful assembly and still suffering from the beating carried out by constable Williamson, Gardner contracted influenza and later died. Even today, some consider Gardner to be the first martyr of the IWA.⁷ It is not surprising, then, that years later, union organizers Arne Johnson, John McCuish, and Hjalmar Bergren would remember the strike with some ambivalence. "It was a mistake for the IWA to get involved in such a strike," but once the union had done so and "overstepped the boundaries, the strike had to be fought," they agreed.⁸ Despite 11 months of struggle, the IWA had little to show for its trouble. This was particularly true in the area of labour legislation. While the strike pushed the ruling Liberals to finally amend the ICA Act to allow working people to choose international unions to bargain on their behalf, there was still nothing in the legislation to compel an employer to negotiate with a union. Not only was it unsuccessful in its bid to sign a collective agreement, but it was unable to achieve its larger objective of remaking the ICA Act in the image of the Wagner Act.⁹ This is perhaps what made the defeat at Blubber Bay so galling for the union leadership. As Stephen Gray has observed, the IWA's decision to "expend so much of its energy at this

one small operation can only be understood ...[as] a struggle with the state itself...to secure ...the legislation that would facilitate the much larger task before it."¹⁰ Consequently, the union would have to wait until World War Two in order to achieve its first large-scale organizational breakthrough in BC. With the onset of the war, Ottawa assumed control over industries considered vital to the war effort. Ironically, the "unconditional surrender of...four major [lumber] companies" to the demands of IWA Local 71 in 1943 came at the behest of a Federal Arbitration Board, not a board constituted under the ICA Act.¹¹

The Blubber Bay strike reveals the multifaceted ability of the state to diffuse collective working-class opposition in order to protect the economic and social conditions necessary for capitalist accumulation. As this discussion demonstrates, the law played a crucial role in achieving this objective, appearing at times in its coercive, ideological, and rhetorical manifestations. The creation of the ICA Act was an attempt by the provincial government to contain militant unionism through the regulation and institutionalization of class struggle. Against the backdrop of the CIO's growth in the US, the politics of the popular front period, and the obstacles to organization facing the IWA in BC, the BC Coast District Council accepted state intervention in labour relations. The leadership believed that unless they demonstrated their ability to organize and defend the interests of the province's Depression-weary lumber workers, they risked losing all political credibility. As the arbitration hearings demonstrate, however, embedded in the Act were a constellation of values and assumptions which exalted hierarchy in the workplace, naturalized the free market, and viewed workers' collective organization with great contempt. This particular world view did not go unchallenged. Throughout the hearings,

the union leadership articulated a vision that held the ability to organize and bargain collectively as both a moral and legal right. Flowing from this notion was a demand for the reinstatement of workers fired for union activity, greater control over the workplace, and higher wages. The hearings were a struggle over power, who should have it, how much, and for what ends, a struggle that the company and state won. In the long term, this new regime of collective bargaining necessitated the professionalization of the union. It was a process which began in earnest during the jurisdictional conflicts with the AFL in the US and, over time, would heighten the power and influence of business agents, labour lawyers, and bureaucrats to the detriment of rank and file workers. As a result, the union leadership came to rely on state agencies and industrial legality and not "combativity and collectivity" for its social, political, and economic gains.¹² As Gray has pointed out, this "legislative approach" created the conditions within which the bitter anti-Communism of the post-war period would take root.¹³ And in the short term, the Act successfully prevented the unionization of PacLime, ushering in a violent and protracted eleven-month strike.

In an attempt to intimidate the unionists back to work, PacLime assumed control over those spaces within which workers might forge the strategies and bonds of solidarity necessary for a successful strike. Such immense power was rooted in its ownership of private property. In order to restore the workers' customary rights of unrestricted access and mobility within the community, the union challenged the legal meaning of private property and public access by invoking the statutory provisions of the Company Town Registration Act. For both PacLime and the union, control over space was crucial: for the

former, it meant the reassertion of its time-honoured **position of authority in Blubber Bay**; for the latter, control over the wharf and other strategic spaces was **perhaps the only way** to force a new collective agreement. This conflict reveals that the law was both a site of class struggle and played a constitutive role in the expression and mediation of class relations in a spatial context. Moreover, it shows that residents' understanding of what was a "just" solution was bounded by their shared experiences as working-class people within the community. Indeed, as both PacLime and the provincial government discovered, attempts to run roughshod over traditional rights of access and mobility or customary work processes elicited great resistance.

Nowhere was this resistance more visible and intense than on the government wharf; it was a site of struggle where unionists and their supporters often clashed with strike breakers and police. On one occasion in late September of 1938, a dockside riot resulted in the arrest of many unionists on charges of unlawful assembly and rioting. Against the backdrop of the rise of the CIO and the "Bloody" Sunday riots in Vancouver, the trials of the Blubber Bay 15 were show trials; they issued a grave warning to citizens about the precarious and inappropriate nature of collective action. It was before Judge Murphy that the rhetorical dimensions of the law came into striking focus. By constructing the struggle at Blubber Bay as a conflict between law and order and the chaos associated with collective working-class action the Crown secured the conviction of twelve strikers. Like the ICA Act and the rights of private property, the laws on unlawful assembly and rioting were dedicated to the elimination of specific kinds of collective working-class action. How could the trials be so unabashedly political without undermining the

legitimacy of the law? In this particular context, the idea that all people regardless of class position could obtain some measure of justice was preserved by the exoneration of Tod McLennan and the conviction of officer Andrew Williamson. The power of the law did not rest on coercion alone; indeed, people's continued obedience to the law rested on a belief that "despite their condition they [would] be treated equally before the law and that those who administer it as well as the laws they enforce are...fair."¹⁴

By travelling to the flashpoints of class conflict -- the hearings, community, and courts -- we have seen the law in many forms. In the end, however, it was the coercive dimensions of state power that loomed largest at Blubber Bay. During the summer and fall of 1938, the police was a fixture in the small community: they defended company property; attended union meetings held in public places; monitored phone calls, recruited scabs; escorted strikebreakers to work; evicted strikers from their homes and bunkhouses; and beat picketers. The riot of 17 September 1938 and the subsequent conviction of strike leaders were decisive moments in the union's campaign; they redirected the struggle and scarce resources from the community to the courts and eventually sapped the union of all its strength. By emphasising the coercive dimensions of state power, I am not reducing the working people in Blubber Bay to victims; indeed, the actions of Yim Kee, Jack Hole, and Tod McLennan (to name just a few) speak to the resilience of strikers and their supporters throughout this moment of class conflict. However, it is crucial to note that the state possessed a monopoly on the legitimate use of force, and chose, on many occasions, to exercise that privilege. In the context of this new collective bargaining regime, the violence at Blubber Bay provided a stunning example of the perils that awaited trade unions who

failed to play by the state's rules. Local 163 was caught between the legislative failings of the ICA Act and the time-honoured restrictions to union activity associated with both common and criminal law. In the end, ironically, it was the laws of unlawful assembly and rioting, not the modern machinery of collective bargaining, which brought labour peace to Blubber Bay. Clearly, to bring the state back in means to bring state coercion back as well.

The conflict at Blubber Bay was not an isolated event, the product of bad social policy or a police constable "losing his cool" while out on patrol. It was rooted in the fundamental division which separated, and continues to separate, those who own the means of production from those who must sell their labour to survive. "Every object we touch comes through the work of another," labour poet Tom Wayman reminds us. "Behind each thing...there is both human work and the human existence that sustains that work so grudgingly."¹⁵ To investigate the laws that order the organization of work, the allocation of its products, and the "human existence" that sustains it, then, opens a window into the relationships of power and production upon which modern British Columbia was built.¹⁶ This discussion has revealed the relationship between the state, law, and the maintenance of capitalist social relations; and, too, the transformative potential of collective working-class action. To understand the links between the two holds out the possibility of assuming greater control over the work that, as Wayman writes, "alters and twists and corrupts and fulfils those...who go to it every day."¹⁷ While the images that return from the summer and fall of 1938 are at times brutal and disquieting, we would do well to recall the immensely important words of Joe Hill: "Don't mourn, organize!"

Endnotes

Abbreviations

Attorney General Documents -- AGD
 Audio and Visual Records Unit -- AVRU
 British Columbia Archives and Records Service -- BCARS
 Harold Pritchett: International Woodworkers of America Papers -- HPIWA
 Judge Charles McIntosh Papers -- JCMP
 John Stanton Papers -- JSP
 Premier's Papers -- PP
 Records of the British Columbia Supreme Court -- RBCSP
 Thomas Dufferin Pattullo Papers -- TDPP
 University of British Columbia Special Collections -- UBCSC

Introduction

1. Taken from "Marina" by T.S. Eliot in Eliot, The Wasteland and Other Poems (New York: Harvest/HBJ Books, 1962), 72.
2. UBCSC, JSP, Box 6, File 12, John Stanton to Arne Johnson, 21 August 1938; William Winchester to Fred Lundstrum, 26 August 1938; "Land Registry Act - Form A," 25 August 1938.
3. Melvyn Dubofsky, The State and Labor in Modern America (Chapel Hill: The University of North Carolina Press, 1994), 111-119; Christopher Tomlins, The State and the Unions: Labor Relations, Law, and the Organized Labor Movement in America, 1880-1960 (Cambridge: Cambridge University Press, 1985), 99-102.
4. Please see Peter Friedlander, The Emergence of a UAW Local 1936-1939: A Study in Class and Culture (Pittsburgh: University of Pittsburgh Press, 1975).
5. "Psychology of success" is taken from Irving Abella, "Oshawa 1937," in Canadian Working Class History: Selected Readings Laurel Sefton MacDowell and Ian Radforth, eds. (Toronto: Canadian Scholar's Press, 1992), 547-575; Nationalism, Communism and Canadian Labour: The CIO, the Communist Party and the Canadian Congress of Labour, 1935-1956, (Toronto: University of Toronto Press, 1973), 1-43.
6. Please see Leo Panitch and Donald Swartz, The Assault on Trade Union Freedoms: From Coercion to Consent Revisited (Toronto: Garamond Press, 1988); Paul Craven 'An Impartial Umpire': Industrial Relations and the Canadian State (Toronto: University of Toronto Press, 1980).

7. Bryan D. Palmer, Working-Class Experience: Rethinking the History of Canadian Labour, 1880-1991 2nd ed. (Toronto: McClelland and Stewart, 1992), 292-293; Jerry Lembcke, "The International Woodworkers of America in British Columbia, 1942-1951," Labour/Le Travailleur 6 (Autumn 1980), 113-148.

8. Abella, Nationalism, Communism, and Canadian Labour, 114.

9. Stephen Gray, "Woodworkers and Legitimacy: The IWA in Canada, 1937-1957," (Ph.D. thesis, Simon Fraser University, 1989), introduction.

10. Raymond L. Hogler, "Critical Legal Studies and Industrial Relations Research: A Review Essay," Industrial Relations Law Journal 9:1 (1987), 148, footnote 2. For an example of the pluralist perspective within the Canadian context see Stuart Jamieson, Industrial Relations in Canada (Toronto: MacMillan of Canada, 1968). See also Margaret Glock, Collective Bargaining in the Pacific North West Lumber Industry (Berkeley: Institute of Industrial Relations, 1955).

11. Raymond L. Hogler, "Labor History and Critical Labor Law: An Interdisciplinary Approach to Workers' Control," Labor History 30:2 (Spring 1989), 165-193.

12. Theda Skocpol, "Bringing the State Back In: Strategies of Analysis in Current Research," in Bringing the State Back In Peter B. Evans, Dietrich Rueshemeyer, Theda Skocpol, eds. (New York: Cambridge University Press, 1978), 6; Tomlins, The State and the Unions; William Forbath, Law and the Shaping of the American Labor Movement (Cambridge: Harvard University Press, 1991); Karen Orren, Belated Feudalism, (New York, Cambridge University Press, 1991), 119. For an insightful review of Tomlin's work and a survey of the new labour law history please see Hogler, "Critical Legal Studies and Industrial Relations Research: A Review Essay," 148-161.

13. Alan Dawley, "Workers, Capital, and the State in the Twentieth Century," in Perspectives on American Labor History: The Problem of Synthesis J. Carroll Moody and Alice Kessler-Harris, eds. (Northern Illinois University Press, Dekalb, 1989), 171; Karl Klare, "Labor Law as Ideology: Toward a New Historiography of Collective Bargaining Law," Industrial Relations Law Journal 4:3 (1981), 450-482; "Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-41," in Marxism and Law Piers Beirne and Richard Quinney, eds. (Toronto: John Wiley and Sons, 1982), 149.

14. For example, Victoria Hattam has argued that the decline of the eclectic radicalism of the Knights of Labor and the rise of the exclusivist and voluntarist politics of the American Federation of Labor was due, in large measure, to a hostile American judiciary which sought to limit workers' collective rights. See Hattam,

Labor Visions and State Power: The Origins of Business Unionism in the United States. (Princeton: Princeton University Press, 1993). For a critique of the Critical Legal Studies movement and new institutionalism in general see Melvyn Dubofsky, The State and Labor in Modern America, introduction; "On Treacherous Terrain: Labor, Politics, and the State in the United States," Comparative Labor History Series, working paper no.3 (November 1993).

15. Peter Goodrich, "Law and Language: An Historical and Critical Introduction," Journal of Law and Society 11:2 (Summer 1984), 175. For a collection of articles and critical commentary about the Critical Legal Studies movement please see "Symposium," Stanford Law Review 36 (1983-1984), 1-674.

16. Karl Klare, "Law Making As Praxis," 40 Telos (Summer 1979), 123-136; Kathryn Stone, "The Postwar Paradigm in American Labor Law," Yale Law Journal 90 (June 1981), 1509-1580.

17. Nicholas Blomley, Law, Space, and the Geographies of Power (New York: The Guilford Press, 1994), 12.

18. Ibid. See also Andrew Vincent, "Marx and Law," Journal of Law and Society 20:4 (Winter 1993), 384.

19. Craven, 355. See also Isaac D. Balbus, "Commodity Form and Legal Form: An Essay on the 'Relative Autonomy' of the Law," Law and Society Review 11:3 (1977), 571-588.

20. Ralph Miliband, The State in Capitalist Society (London: Quartet Books Limited, 1973), 161.

Chapter One

1. Ian Radforth. Bushworkers and Bosses: Logging in Northern Ontario, 1900-1980 (Toronto: University of Toronto Press, 1987), 137; Jerry Lembcke and William M. Tattam, One Union in Wood: A Political History of the International Woodworkers of America (Vancouver: Harbour Publishing Company, 1984), 30-38.

2. Norman Penner, Canadian Communism: The Stalin Years and Beyond (Toronto: Methuen, 1988), 144-145. After an unsuccessful strike against the Alberni-Pacific lumber company in 1934, for example, the leadership of the LWIU implored union members to overcome their "illusions concerning the impartial attitude of the state in strike struggles." They insisted that state involvement in the areas of minimum wage controls or compulsory union registration was tantamount to fascism. "And the sooner the lumber workers realize this," the union's newspaper, the Lumber Worker, editorialized, "the sooner we will abolish all forms of fascism and the decaying system that makes it possible." Please see BC Lumber Worker, 29 September 1934 and 22 December 1934.

3. By 1937 former "fat boys" such as AFL stalwart and President of the Vancouver Trades and Labour Council Percy Bengough were considered respectable trade union representatives and the union's paper, the Lumber Worker, exalted former red-baiting leader of the United Mine Workers of America and President of the CIO, John L. Lewis, as the saviour of industrial unionism. "The programme of the CIO shot like an electric current through the labor army, kindling fires of hope in the hearts of millions of unorganized men and women...", one Lumber Worker writer gushed. Please see BC Lumber Worker, 22 August 1936. For Lewis and anti-Communism see Palmer, Working-Class Experience, 223-224.

4. Penner, 145.

5. Melvyn Dubofsky and Warren Van Tine, John L. Lewis: A Biography (Toronto: Fitzhenry and Whiteside, 1977), 220-221; Robert H. Zieger, John L. Lewis: Labor Leader (Boston: Twayne Publishers, 1988), 82-83; Palmer, Working-Class Experience, 254.

6. Lembcke and Tattam, 30-38; Lembcke, 113-148.

7. BC Lumber Worker, 20 July 1935.

8. Lembcke and Tattam, 33.

9. Dubofsky and Van Tine, 220-221; Zieger, 82-83 and 88-89; Palmer, Working-Class Experience, 254. According to Zieger, at the time of its secession the CIO contained international unions with a membership of 1.2 million working people, approximately 30 percent of the AFL's total membership.

10. Grant MacNeil, The IWA in British Columbia. (Vancouver: Issued by the Western Canadian Regional Council No. 1, 1971), 13. X

11. At the Carpenters' convention that December, general-secretary Frank Duffy lashed out at the fledgling Federation and the "malignant effects" of industrial unionism. "Do you want to stay with the United Brotherhood or do you not?" Duffy asked. "Let me tell you this--and this is no threat. Go on out of the Brotherhood, and we will give you the sweetest fight you ever had in your lives." Please see Walter Galenson, The CIO Challenge to the AFL: A History of the American Labor Movement, 1935-1941 (Cambridge: Harvard University Press, 1960), 385.

12. UBCSC, HPIWA, Box 1, File 8, Minutes of the Annual Convention, BC Coast District Council, 10/11 July 1937.

13. Ibid. For Arne Johnson, President of one of the Vancouver locals and former WUL executive member cracking the larger operations was absolutely crucial to a larger organizational breakthrough. "[U]ntil such a time that we are able to penetrate these camps as well as saw mills and shingle mills, our industry is

far from having the strength and power that it should have," he announced at the convention. Johnson knew the treacherous nature of organizing in the large camps. Earlier that year, he was convicted of trespassing on company property and for assaulting a camp manager who attempted to prevent him from distributing the Lumber Worker.

14. Ibid.

15. Ibid., Minutes of Special Meeting of Executive Committee: BC Coast District Council, 1 August 1937.

16. Penner, 130; Maurice Isserman, Which Side Were You On? The American Communist Party During the Second World War (Middletown: Wesleyan University Press, 1982), 12.

17. UBCSC, HPIWA, Box 4, File 21, Minutes of Special Meeting, BC Coast District Council, 1/2 November 1937.

18. Ibid.

19. Mark Leier, . Where the Fraser River Flows: The Industrial Workers of the World in British Columbia (Vancouver: New Star Books, 1990).

20. Gray, 28. According to Gray, by 1935 the LWIU held only two contracts, one with Lake Logging at Cowichian Lake and the other with J.R. Morgan Company in the Queen Charlotte Islands.

21. UBCSC, HPIWA, Box 4, File 21, Minutes of Special Meeting, BC Coast District Council, 1/2 November 1937.

22. Ibid.

23. Local Teamsters, who refused to haul the tainted IWA lumber, overturned trucks driven by IWA men and their sympathizers. As well, small rivers which carried raw logs to the mills were clogged with boats piloted by AFL sailors, workers' homes were stoned, a pro-CIO factory was set ablaze, and men on both sides of the line were beaten up. Please see Galenson, 387-388; Lembcke and Tattam, 56.

24. Galenson, 387.

25. Legal action was also used in order to stem the flow of locals who were seceding from the ranks of the Brotherhood. A US court ruling allowed AFL "paper locals" with a minimum of ten members to retain control of all union assets after the membership had voted to join the IWA, a decision that ensured the financial survival of the AFL. Please see, Jerry Lembcke, "The International Woodworkers of America: An Internal Comparative Study of Two Regions," (Ph.D. thesis, University of Oregon, 1978), 264.

26. UBCSC, HPIWA, Addendum #1, Oversized Box #1, Report of the International President, Harold J. Pritchett to the First Constitutional Convention [of the IWA], 3 December 1937.

27. Ibid.

28. Ibid.

29. Ibid.

30. Ibid.

31. For an informative discussion of industrial legality and the emergence of union bureaucracy see Ian McKay, The Craft Transformed: An Essay on the Carpenter's of Halifax, 1885-1995 (Halifax: Holdfast Press, 1985). According to Keith Burgess, workers who toiled at the unskilled occupations in the mining operations in Scotland were further marginalized from the decision making process as the addition of a formalised conciliation and arbitration process mapped existing structures of hierarchy and privilege rooted in differences in wages, skill, and ethnicity. Please see Burgess, The Origins of British Industrial Relations: The 19th Century Experience (London: Croom Helm, 1975), 307-309.

32. UBCSC, HPIWA, Addendum #1, Oversized Box #1, Report of the International President, Harold J. Pritchett to the First Constitutional Convention [of the IWA], 3 December 1937.

33. Ibid.

34. Tomlins, 95.

35. Ibid.

36. Allan Irving, "The Development of a Provincial Welfare State: British Columbia, 1900-1939", in The Benevolent State: The Growth of Welfare in Canada Allan Moscovitch and Jim Albert, eds. (Toronto: Garamond Press, 1987), 155-175; Doug Owsram, The Government Generation (Toronto: University of Toronto Press, 1986), 143, 309-310; Robin Fisher, Duff Pattullo of British Columbia (Toronto: University of Toronto Press, 1991), 274.

37. Quoted in Irving, 165.

38. BCARS, TDPP, Add.MSS. 3, Volume 75, File 11, Memorandum from Department of Labour to Premier's Office, 26 March 1935. For an overview of labour legislation in BC before 1935 see Harold Fabian Underhill, "Labor Legislation in British Columbia," (Ph.D. thesis, University of California, 1936).

39. Jean Barman, The West Beyond the West: A History of British Columbia (Toronto: University of Toronto Press, 1991), 257-260;

Paul Phillips, No Power Greater: A Century of Labour In British Columbia (Vancouver: BC Federation of Labour and Boag Foundation, 1967), 115-116; Fisher, 298-300.

40. Fisher, 299 and 308.

41. Ibid., 309.

42. BCARS, PP, Box 142, File 142-7, George Pearson to T.D. Pattullo, 30 September 1937.

43. Ibid.

44. For more on the IDIA and the creation of federal industrial relations policy see William M. Baker, "The Miners and the Mediator: The 1906 Lethbridge Strike and MacKenzie King," in Canadian Working Class History: Selected Readings Laura Sefton MacDowell and Ian Radforth, eds. (Toronto: Canadian Scholar's Press, 1992), 383-409; Paul Craven, An Impartial Umpire; Laurel Sefton MacDowell, "The Formation of the Canadian Industrial Relations System During World War Two," in Canadian Working Class History: Selected Readings, 575-595; Leo Panitch and Donald Swartz. "Towards Permanent Exceptionalism: Coercion and Consent in Canadian Industrial Relations," Labour/Le Travail 13 (Spring 1984), 133-157; H.C. Pentland, "The Canadian Industrial Relations System: Some Formative Factors," Labour/Le Travailleur 4 (1979), 10-23; Jeremy Webber, "The Malaise of Compulsory Arbitration: Strike Prevention in Canada during World War II," in The Character of Class Struggle Bryan D. Palmer, ed. (Toronto: McClelland and Stewart, 1986), 138-159.

45. BCARS, PP, GR 1222, Box 142, File 5, Pearson to Pattullo, 24 September 1937.

46. Ibid., Box 142, File 7, Pearson to Pattullo, 30 September 1937.

47. Ibid., 29 September 1937.

48. Ibid., 30 September 1937.

49. BC Lumber Worker, 9 November 1935.

50. BCARS, PP, GR 1222, Box 142, File 7, Pearson to Pattullo, 30 September 1937.

51. BC Lumber Worker, 25 November 1936.

52. Craven, 355.

53. BCARS, PP, GR 1222, Box 142, File 7, "An Act to Recognize in Law the Right of Employees to Organize for the Furtherance of Their

Lawful Interests."

54. Vancouver Daily Province, 6 November 1937.

55. BCARS, PP, GR 1222, Box 142, File 7, BC Executive of the TLC to Pattullo, 24 June 1938.

56. Ibid.

57. Vancouver Daily Province, 6 November 1937.

58. Ibid., 12 November 1937.

59. Ibid., 24 November 1937.

60. "Report of the Deputy Minister [of Labour], 1937," in BC Sessional Papers (1938), S71-S77. In his annual report the deputy minister included the text of the ICA Act.

61. Ibid., S75. Please see ICA Act, sections 27, 28, 31.

62. Ibid., S75. Please see ICA Act, section 28.

63. Ibid., S77. Please see ICA Act, section 50.

64. Vancouver Daily Province, 9 December 1937.

65. BC Lumber Worker, 15 December 1937.

66. Peter Warrian, "'Labour is not a Commodity': A Study of the Rights of Labour in the Canadian Post-War Economy, 1944-48," (Ph.D. thesis, University of Waterloo, 1986), 1-5 and 81.

67. BCARS, TDPP, Add.MSS. 3, Volume 74, File 12, Farris to Pattullo, 27 September 1937. Farris was extensively involved with the Liberal Party at both the provincial and federal levels. During the summer election campaign, Farris was in charge of organizational work for Pattullo.

68. BCARS, PP, GR 1222, Box 142, File 7, Wendall B. Farris to Minister of Labour, 10 December 1937.

69. Ibid.

70. Ibid., Box 142, File 6, Pattullo to A.A. Dysart [Premier of New Brunswick], 19 February 1938.

71. Ibid., Box 142, File 7, "Summary of Proposed Industrial Arbitration and Conciliation Act (British Columbia) 1937." In this early draft of the legislation, Pearson's desire to meet the challenge of "radical elements" was far more obvious:

only British subjects, or those who have applied for naturalization papers as British subjects may compose the Executive of such unions, and further, that aliens in excess of forty percent of a membership of a registered union shall invalidate the registration of that registered union.

72. Ibid., Bengough to Pattullo, 25 November 1937.
73. Ibid.
74. Ibid.
75. Tomlins, 101.
76. BC Lumber Worker, 1 December 1937.
77. Ibid.
78. Ibid.
79. UBCSC, HPIWA, Box 1, File 9, J. Brown and H. Peterson to "Sir and Brother", 7 October 1938.
80. Ibid., Box 4, File 21, Minutes of District Council Meeting, 24 April 1938.

Chapter Two

1. R.C. Connell, The Geological Survey of Canada, (Ottawa: Queen's Printers, 1912), 18, 21, and 97.
2. Taken from "Texada Sleeps" by Jim Tungate in Cecil May and the Texada Centennial Committee, Texada (n/a, 1960), 51.
3. BCARS, AVRU, photographs #11631 A-4516 and #71459 H-1414.
4. Myrtle Bergren, Tough Timber (Toronto: Progress Books, 1966), 116.
5. May, 4.
6. BC Lumber Worker, 4 October 1938.
7. May, 35.
8. Ibid., 23.
9. BCARS, AVRU, photograph #11631 A-4516; #71461; #71460; UBCSC, JSP, Box 6, File 12, F.S. DeGrey, Chief Sanitary Officer to Dr. H.E. Young, Provincial Health Officer, 24 June 1938.

10. May, 48. This geographical separation of white and Chinese workers mirrored the racial divisions which characterized some aspects of community life. For example, the banquets and dances which took place in VanAnda or Blubber Bay were usually attended by whites only. "It was not customary to include the Chinese," one Blubber Bay resident remarked in 1938. This notion was echoed by the Provincial Health Inspector during an inspection of the company's facilities: "[The Chinese] have their gardens, chickens, etc. in their own way and [in] isolation." Please see UBCSC, JSP, Box 6, File 12, F.S. DeGrey, Chief Sanitary Officer to Dr. H.E. Young, Provincial Health Officer, 24 June 1938.

11. Gillian Creese, "Class, Ethnicity, and Conflict: The Case of Chinese and Japanese Immigrants, 1880-1923," in Workers, Capital and the State in British Columbia: Selected Papers Rennie Warburton and David Coburn, eds. (Vancouver: UBC Press, 1988), 61; "Exclusion or Solidarity? Vancouver Workers Confront the 'Oriental Problem'," in Canadian Working Class History: Selected Readings, 311-333.

12. BCARS, AGD, GR 1723, File 1-176-4, J.H. McMullin, Commissioner of BC Police to Secretary to the Honourable Attorney General, 23 August 1938. McMullin's letter indicates that the Pacific Lime Company provided water to the entire community of Blubber Bay; BCARS, JCMP, Add.MSS 1174, Box 6, File 11, "In the Matter of the Employees and Ex-Employees of the Pacific Lime Company Limited and the International Woodworkers of America Local #163. and the Pacific Lime Company Limited," 11.

13. BCARS, JCMP, Add.MSS 1174, Box 7, File 11, "Points Available for Meeting."

14. May, 38.

15. David Frank, "Company Town/Labour Town: Local Government in the Cape Breton Coal Towns, 1917-1926," Histoire Sociale/Social History XIV:27 (mai-May 1981), 178-179.

16. The exact date of this strike remains unclear. Internal correspondence within the Department of Labour states the strike occurred "sometime in 1919 or 1920," however, the BC Lumber Worker claims that it took place in 1924. Please see BCARS, JCMP, Add.MSS 1174, Box 7, File 11, James Thomson, Conciliation Commissioner to George S. Pearson, Minister of Labour, 7 April 1938; BC Lumber Worker, 4 October 1938.

17. BCARS, JCMP, Add.MSS 1174, Box 7, File 11, James Thomson, Conciliation Commissioner to George Pearson, Minister of Labour, 7 April 1938.

18. Ibid., Box 6, File 11, P.J. Maw to "Our Employees," 8 July 1937. Emphasis in the original.

19. "Report of the Deputy Minister [of Labour], 1937," in BC Sessional Papers (1938), S80.

20. BC Lumber Worker, 4 October 1938.

21. Nicholas K. Blomley has written extensively on the relationship between law, space, and power. Please see Blomley, "The Business of Mobility: Geography, Liberalism and the Charter of Rights," The Canadian Geographer (1992), 239; "Text and context: rethinking the law-space nexus," Progress in Human Geography 13 (1989) 513-533; "Interpretive practices, the state and the locale," in The Power of Geography: How Territory Shapes Social Life Jennifer Wolch and Michael Dear, eds. (Boston: Unwin Hyman, 1989), 175-196. Also please see Edward W. Soja, Postmodern Geographies: The Reassertion of Space in Critical Social Theory (New York: Verso, 1989). The relationship between power and space is receiving some attention from feminist and gay/lesbian historians as well. Many have investigated the connections between space and sexuality by highlighting the ability of the state or moral reformers to manipulate the spatial dimensions of everyday life to facilitate a degree of conformity to dominant notions of acceptable sexual behaviour. Please see Mary Louise Adams, "Almost anything can happen: A search for sexual discourse in the urban spaces of 1940s Toronto," Canadian Journal of Sociology 19:2 (1994), 217-232.

22. E.P. Thompson, "The Poverty of Theory or An Orrery of Errors," in The Poverty of Theory and Other Essays (New York: Monthly Review Press, 1978), 96.

23. BCARS, JCMP, Add.Mss 1174, Box 7, File 11, W.H. McGeough to George S. Pearson, 7 April 1938; James Thomson to George Pearson, 1 April 1938.


24. The notion of court proceedings as drama is advanced most eloquently by Douglas Hay in "Property, Authority and the Criminal Law," in Albion's Fatal Tree Douglas Hay, ed. (London: Oxford University Press, 1975), 17-63. Hay's investigation of the 18th century county courts in England concentrates on the ways in which the judicial system combined "majesty, justice and mercy" in order to secure the consent of the labouring poor to the "bloodiest" civil code in western Europe. Many Canadian feminist historians have drawn upon his work, including Carolyn Strange, "Wounded Motherhood and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davies," in Gender Conflicts: New Essays in Women's History Franca Iacovetta and Mariana Valverde, eds. (Toronto: University of Toronto Press, 1992), 149-189; Karen Dubinsky and Franca Iacovetta, "Murder, Womanly Virtue and Motherhood: The Case of Angelina Napolitano, 1911-1922," Canadian Historical Review LXXII:4 (1991), 505-531.

25. BCARS, JCMP, Add.MSS 1174, Box 6, File 11, "In the matter of the employees and ex-employees of the Pacific Lime Company Limited

and the International Wood workers of America Local #163. and the Pacific Lime Company Limited -- Submission to arbitration board on behalf of employees and ex-employees and the union," 1.

26. Ibid., "Written argument of the Pacific Lime Company," 4.

27. John Stanton, Never Say Die!: The Life and Times of a Pioneer Labour Lawyer (Ottawa: Steel Rail Publishing, 1987), 14.

28. BCARS, JCMP, Add.Mss 1174, Box 7, File 11, "In the matter of the "Industrial Conciliation and Arbitration Act" and in the matter of a dispute between the Pacific Lime Co. Ltd, and its employees," 5. 

29. Ibid., 11.


30. Ibid.

31. Ibid., Box 6, File 11, "Written Argument of the Pacific Lime Company," 2-3.

32. Ibid., "A reply to Summary of Mr. Bird on Behalf of the Company," 2. Historians Gillian Creese and Michael Goldfield have argued that the possibility for racial solidarity was more likely in left-led unions, claiming that radical ideologies such as Communism provided white workers with the political imagination necessary to "redefine Asians not as `foreigners' but as workers," needed to fight capitalism. Please see Creese, "Exclusion or Solidarity? Vancouver Workers Confront the 'Oriental Problem'," 317; Goldfield, "Race and the CIO: Reply to Critics", International Labour and Working-Class History 46 (Fall 1994), 150. For an insightful discussion of race and the working-class in the United States please see David Roediger, The Wages of Whiteness (New York: Verso, 1991); "The Crisis in Labor History: Race, Gender and the Replotting of the Working Class Past in the United States," in Towards the Abolition of Whiteness: Essays on Race, Politics and Working-Class History David Roediger, ed. (New York: Verso, 1994), 69-83.

33. BCARS, JCMP, Add.Mss 1174, Box 6, File 11, "Written Argument of the Pacific Lime Company," 2.

34. Ibid.

35. Ibid., "In the matter of the employees and ex-employees of the Pacific Lime Company Limited and the International Woodworkers of America Local #163, and the Pacific Lime Company: Submission to Arbitration Board on Behalf of Employees and Ex-Employees and the Union," 15-16. 

36. Ibid., 21. Emphasis in the original.

37. BCARS, Strike and Lock-out file, GR 1695, B-7215, T-3004, Volume 936, Number 36, March 1938. Quotes are taken from a copy of the IWA's proposal to the Pacific Lime Company contained in the strike and lock out file. Please see the following clauses: 4, 5, 6, 7, and 8.

38. BCARS, JCMP, Add.Mss 1174, Box 6, File 11, "In the matter of the employees and ex-employees of the Pacific Lime Company Limited and the International Woodworkers of America Local #163, and the Pacific Lime Company: Submission to Arbitration Board on Behalf of Employees and Ex-Employees and the Union," 20. In the context of a work place where Chinese workers outnumbered whites, the effects of the union's position on racial parity are unclear. If whites had previously held more than 50 per cent of stevedoring jobs, then racial parity meant the union was partially eradicating white privilege in the workplace. Conversely, had Chinese workers monopolized such jobs before the dispute, then the union's position was an attempt to secure increased work for married whites at the expense of single Chinese employees.

39. Ibid., "In the matter of the 'Industrial Conciliation and Arbitration Act' and in the matter of a dispute between the Pacific Lime Co. Ltd. and its employees," 7.

40. Ibid., "Written argument of the Pacific Lime Company Ltd.," 7.

41. BCARS, JCMP, Add.MSS 1174, Box 7, File 11, "Award of the Board of Arbitration," 2-4.

42. BCARS, TDPP, Add.MSS. 3, Volume 65, File 4, "Premier's Radio Address," 28 March 1938.

43. Klare, "Judicial Deradicalization of the Wagner Act and the Origins of Modern Legal Consciousness, 1937-41," 138-168.

44. Orren, Belated Feudalism, 8.

45. Patrick Macklem, "Property, Status and Workplace Organizing," University of Toronto Law Journal 40 (1990), 91.

46. BCARS, JCMP, Add.Mss 1174, File 6, Box 11, "In the matter of the Industrial Conciliation and Arbitration Act, and in the matter of a dispute between Pacific Lime Company Limited and its Employees," 19.

47. People's Advocate, 20 May 1938.

48. BCARS, AGD, GR 1723, File 1-176-4, E.A. McLennan to Honourable Gordon Wismer, 26 May 1938.

49. Ibid., Wismer to McLennan, 7 June 1938.

50. UBCSC, HPIWA, Box 5, File 13, Minutes of Annual Convention, BC Coast District Council, 30-31 July 1938.

51. Ibid. Of the 75 cases brought before the board that year the IWA had secured a favourable decision in all but three.

52. Ibid.

53. At the annual meeting of Local #71 earlier that month delegates overwhelmingly endorsed two resolutions:

we stand resolutely on the question that all workers shall have the right to belong to any organization of their own choosing, together with the right to bargain collectively with the employers as provided by [the ICA Act];

and,

[that] Pearson, Minister of Labour, administer [the ICA Act] both according to its spirit and to the letter.

Please see UBCSC, HPIWA, Box 8, File 7, Annual meeting of 1-71, 2/3 July 1938.

54. "Report of the Deputy Minister [of Labour], 1938," in BC Sessional Papers (1939), P83.

55. BC Lumber Worker, 4 October 1938.

56. BCARS, PP, GR 1222, Box 20, File 1, George Pearson to Premier Pattullo, 31 October 1938.

57. According to Linda Hershovitz, during moments of overt class conflict, "control over spatial organization and authority over the use of space becomes a crucial means for the reproduction of social power relations." Please see Hershovitz, "Tiananmen Square and the Politics of Place," Political Geography 12:5 (September 1993), 399.

58. BCARS, AGD, GR 1723, File 1-176-4, H.I. Bird to Gordon Wismer, 8 June 1938; E.A McLennan to Wismer, 4 August 1938.

59. Ibid., Pacific Lime Company to Honourable Gordon Wismer, 8 June 1938.

60. Ibid., Provincial Police (Powell River) to Division Headquarters (Vancouver), 10 June 1938.

61. UBCSC, JSP, Box 6, File 14, Affidavit - Elizabeth Maylor, September 1938.

62. Ibid., Box 6, File 12, Roy Maylor to John Stanton, 30 September 1938.
63. The Town Crier, 20/21 September 1938.
64. BCARS, AGD, GR 1723, File 1-176-4, "I.W.A. UNION LAUNCHES LAWSUITS AGAINST BLUBBER BAY OFFICIALS".
65. UBCSC, JSP, Box 6, File 12, John Stanton to G.M. Weir, Minister of Education, 12 September 1938.
66. Ibid., Colin Cameron to Wismer, 19 August 1938.
67. People's Advocate, 13 August 1938.
68. According to David Harvey, the maintenance of "ideological and political hegemony...depends on the ability to control the material context of personal and social experience." Please see Harvey, The Condition of Postmodernity: An Enquiry into the Origins of Cultural Change (Cambridge: Basil Blackwell, 1992), 227.
69. Bergren, Tough Timber, 119-120; UBCSC, HPIWA, Box 10, File 13, Minutes of the Ways and Means Committee, 27 October 1938; The Town Crier, 11 July 1938.
70. UBCSC, HPIWA, Box 10, File 14, Minutes of the Ways and Means Committee, 20 October 1938.
71. Bergren, 119.
72. UBCSC, JSP, Box 6, File 12, "Memo For Mr. Lucas, Re: Address to the Jury," 2.
73. UBCSC, HPIWA, Box 10, File 14, Minutes Ways and Means Committee, 20 October 1938.
74. UBCSC, JSP, Box 6, File 12, "Memo For Mr. Lucas, Re: Address to the Jury," 2.
75. BCARS, AGD, GR 1723, File 1-176-4, "Report: Striking Pacific Lime Company's employees at Blubber Bay, B.C.," 22 July 1938.
76. For a summary of arrests and sentences please see Thomas Burnell, "Labour Unrest and Justice: The Case of Blubber Bay," (BA (Honours) Essay, University of British Columbia, 1980), 29.
77. Harvey, 238.
78. Stanton, Never Say Die!, 16.
79. John Stanton, My Past is Now: Further Memoirs of a Labour Lawyer (St. John's: Canadian Committee on Labour History, 1994),

vii.

80. UBCSC, JSP, Box 6, File 12, Stanton to Peele, 21 August 1938.
81. Ibid., Box 6, File 24, Stanton's handwritten notes from a conversation with McLorg, counsel for Pacific Lime Company, undated; Ibid., Box 6, File 12, Bird and McLorg to Stanton, 29 August 1938.
82. BCARS, AGD, GR 1723, File 1-176-4, Stanton to Attorney General, 9 September 1938.
83. Stanton, Never Say Die!, 19.
84. BCARS, AGD, GR 1723, File 1-176-4, "[Police] Report. Re. Messrs. Grant McNeill, M.P., Colin Cameron, M.L.A. and Mr. Stanton, Solicitor. (Activities of)," 30 August 1938.
85. Ibid.
86. Ibid.
87. Ibid., Sutherland to Attorney General, 30 August 1938.
88. Ibid., MacNeil to Wismer, 29 August 1938.
89. Ibid., Wismer to MacNeil, 3 September 1938.
90. Ibid., Cameron to Wismer, 31 August 1938.
91. Harvey, 237.
92. Hershovitz, 399.
93. Ibid.
94. UBCSC, JSP, Box 6, File 12, Stanton to Peele, 21 August 38.
95. Ibid., Stanton to Deputy Minister of Public Works, 23 August 1938.
96. Ibid., A. Dixon, Chief Engineer, Department of Public Works to Stanton, 2 September 1938.
97. Ibid., Stanton to Honourable G.M. Weir, Minister of Education, 12 September 1938.
98. Ibid.
99. Please see Tina Loo, "A Delicate Game: Law and Order at Grouse Creek," BC Studies 96 (Winter 92/3), 41-65.

100. Blomley, "The Geography of Mobility," 249; Soja, 128.
101. As Gaston Bachelard reminds us, "space that has been seized upon by the imagination cannot remain indifferent space subject [only] to the measures and estimates of the surveyor." Please see Bachelard, The Poetics of Space (Boston: Beacon Press, 1964), xxxvi.
102. "Company Towns Regulation Act." R.S.B.C., 1924, Chapter 47 Section 3.
103. Ibid., Section 4 (1).
104. UBCSC, JSP, Box 6, File 12, Deputy Minister, Department of Lands to Stanton, 6 October 1938.
105. Blomley, "Text and context: rethinking the law-space nexus," 519-523.
106. The quote is from Soja, 24; Blomley, Law, Space and the Geographies of Power, xi.
107. E.P. Thompson, Whigs and Hunters: The Origins of the Black Act (London: Allen Lane, 1975), 261.
108. Thompson, "The Poverty of Theory or An Orrery of Errors," 96. Emphasis is in the original.
109. The quotation is from Philip Corrigan and Derek Sayer, The Great Arch: English State Formation as Cultural Revolution (New York: Basil and Blackwell Ltd.), preface.
110. Ibid., 4.

Chapter Three

1. "Hold The Fort," Songs of the Workers: To Fan the Flames of Discontent (Chicago: The Industrial Workers of the World, 1973), 33.
2. BCARS, AGD, GR 1727, Volume 238, Bench books of Judge Denis Murphy, Rex v. Eng, Raeside. Cope, Shaak, Liebeich and Chung.
3. Ibid., GR 1723, File 1-176-4, "Report - Re: Riot Blubber Bay Wharf. Saturday Sept. 17th, 1938." The report was filed by Sergeant Sutherland.
4. Ibid., "Report - Re: Demonstration Blubber Bay Wharf. Sept, 13th, 1938."

5. Ibid., "Report - Re: Riot Blubber Bay Wharf. Saturday Sept. 17th, 1938." The report was filed by Sergeant Sutherland.

6. Town Crier, 19 September 1938. According to the newspaper, eyewitnesses claimed that

everyone on the dock was fighting. Apparently the trouble started between the workmen and the strikers, but the outbreak came so suddenly and seemed to envelope the entire assemblage at one time, that it [was] difficult to point out the actual commencement.

7. Stanton, Never Say Die!, 20-21.

8. UBCSC, HPIWA, Box 10, File 13, Minutes of Strike and Relief Committee, 18 September 1938.

9. BCARS, AGD, GR 1723, File 1-176-4, Harold Winch to Hon T.D. Pattullo, 22 September 1938.

10. UBCSC, JSP, Box 6, File 12, Stanton to Cameron, 19 September 1938.

11. Stanton, Never Say Die!, 22.

12. Town Crier, 26 September 1938.

13. Vancouver Daily Province, 26 September 1938.

14. BC Lumber Worker, 27 September 1938; Vancouver Daily Province, 26 September 1938; Stanton, Never Say Die!, 22

15. Stanton, Never Say Die!, 23.

16. UBCSC, JSP, Box 6, File 24, [Stanton's] Personal Notes - Rex V. McLennan, 3 December 1938.

17. Stanton, Never Say Die!, 23.

18. Town Crier, 26 September 1938.

19. Ibid.

20. BCARS, AGD, GR 1723, File 1-176-4, untitled, 21 September 1938.

21. Ibid.

22. Ibid.

23. Ibid., Assistant Departmental Solicitor to A.E. Branca, 8 November 1938. The Blubber Bay 15 included: D. Raeside, George

Cope, John Hole, Stan Abercrombie, Edward Stewart, Grant Empey, Joe Eng, Peter Bergman, Herman Shaak, Ronald MacDonald, Robert Gardner, Walter Liebiech, L. Chun, Joe Jacobs and R. Abercrombie.

24. UBCSC, JSP, Box 6, File 12, Stanton to Hole, 28 October 1938; Vancouver Daily Province, 7 October 1938; BC Lumber Worker, 18 October 1938.

25. UBCSC, JSP, Box 6, File 12, Stanton to the Honourable [Federal] Minister of Labour, 25 October 1938.

26. UBCSC, HPIWA, Box 10, File 13, Minutes of the Strike Relief and Defence Committee, 5 October 1938. The following union members were in attendance: Hole, Shaak, Akre, Stehr, Mack, McLennan, J. Brown, G. Brown, Cameron, MacCuish, Peterson, and Pritchett.

27. UBCSC, JSP, Box 6, File 12, "Memorandum of conversation between Mr. Colin Cameron and Mr. H.I. Bird relative to the terms on which negotiations will be opened, with a view to finding a solution of labour difficulties at Blubber Bay," 7 October 1938; UBCSC, HPIWA, Box 10, File 13, Minutes of the Strike Committee, 5 October 1938. The quote is taken from the minutes of the strike committee.

28. UBCSC, HPIWA, Box 10, File 13, Minutes of the Strike Committee, 11 October 38.

29. BCARS, PP, GR 1222, Box 20, File 1, Lundstrum to The Honourable T.D. Pattullo, 26 October 1938.

30. UBCSC, JSP, Box 6, File 12, Lundstrum to Bird, 20 October 1938.

31. UBCSC, HPIWA, Box 10, File 13, Minutes of the Strike Committee, 31 October 1938.

32. Ibid.

33. UBCSC, JSP, Box 6, File 12, Harold Winch to Stanton, 31 October 1938.

34. Vancouver Sun, 29 October 1938; Town Crier, 31 October 1938.

35. Vancouver Daily Province, 1 November 1938.

36. Vancouver Sun, 1 November 1938.

37. Victoria Times, 29 October 1938.

38. Vancouver Sun, 30 September 1938.

39. People's Advocate, 29 September 1938.

40. BCARS, AGD, GR 1763, File 1-176-4, A. Wells Gray, Acting Attorney-General to Harold Winch, 23 September 1938; UBCSC, JSP, Box 6, File 24, Cameron to Stanton, 24 November 1938; Victoria Times, 26 September 1938; Vancouver Daily Province, 21 September 1938.
41. Vancouver Sun, 1 November 1938.
42. BCARS, TDPP, Add.MSS. 3, Volume 65, File 1a, Premier's Speech, 31 October 1938.
43. Vancouver Daily Province, 8 December 1938.
44. Phillips, No Power Greater, 118-119.
45. Vancouver Daily Province, 8 July 1938.
46. Vancouver Sun, 10 December 1938.
47. Barbara Weinberger, "Police perceptions of labour in the inter-war period: the case of the unemployed and of miners on strike," in Labour, Law and Crime: An Historical Perspective Douglas Hay and Francis Snyder, eds. (New York: Tavistock Publications, 1987), 150-180.
48. BCARS, AGD, GR 1763, File 1-176-4, Affidavits - John Melville Hicks and Oswald Septimus Peele, 2 November 1938.
49. Ibid., "Extract from report submitted by T.D. Sutherland, May 3rd 1938."
50. UBCSC, JSP, Box 6, File 24, Stanton to Cameron, 28 November, 1938.
51. BCARS, AGD, GR 1763, File 1-176-4, Branca to The Honourable Attorney General, 14 November 1938. The quotation is taken from R. v. William Crane. 15 C.A.R. 23 (1920), 25.
52. UBCSC, JSP, Box 6, File 24, Stanton to Cameron, 23 November 1938.
53. BCARS, AGD, GR 1763, File 1-176-4, Branca to The Honourable Attorney General, 1 November 1938.
54. Ibid., Assistant Departmental Solicitor to Branca, 15 November 1938. The quotation is taken from Queen v. Weir (No. 2) 3 C.C.C. 155 (1899), 160.
55. Ibid., Hole, Gardner, Stewart, Shaak, Liebiech, Jacobs, Bergman, Empey, Chung, S. Abercrombie, R. Abercrombie, Eng and Cope to The Honourable Gordon Wismer, 23 November 1938.

56. UBCSC, JSP, Box 6, File 24, Stanton to Cameron, 23 November 1938.
57. BCARS, AGD, GR 1763, File 1-176-4, Hole, Gardner, Stewart, Shaak, Liebiech, Jacobs, Bergman, Empey, Chung, S. Abercrombie, R. Abercrombie, Eng and Cope to The Honourable Gordon Wismer, 23 November 1938.
58. Vincent Moore, Angelo Branca: Gladiator of the Courts, (Vancouver: Douglas and McIntyre, 1981), 21.
59. Ibid., 20-21.
60. James Boyd White, Heracles' Bow: Essays on the Rhetoric and Poetics of Law (Madison, University of Wisconsin Press, 1985,) 116.
61. Kim Lane Scheppele, "Foreword: Telling Stories," Michigan Law Review 87:8 (August 1989), 2075.
62. Ibid., 2079.
63. Tina Loo, "Dan Cranmer's Potlatch: Law as Coercion, Symbol, and Rhetoric in British Columbia, 1884-1951," Canadian Historical Review LXXIII:2 (Spring 1992), 125-165.
64. John Steffler, "Poetic Knowledge: language as matter," Poetry Canada Review 14:3 (1994), 14-15.
65. Scheppele, 2075.
66. BCARS, AGD, GR 1723, File 1-176-4, "Report - Re: Demonstration Blubber Bay Wharf. Sept, 13th, 1938.," 17 September 1938.
67. Ibid., GR 419, Box 473, File 68, "Preliminary Hearings -Rex v. MacDonald," 3.
68. Ibid., GR 1727, Volumes 236-37-38, Benchbooks - Denis Murphy, Volume 237, Rex V. MacDonald, 16 November 1938.
69. UBCSC, JSP, Box 6, File 12, "Memo for Mr. Lucas Re: Address to Jury."
70. Ibid.
71. Vancouver Daily Province 17 November 1938; Vancouver Sun 17 November 1938.
72. Vancouver Daily Province, 17 November 1938.
73. BCARS, AGD, GR 1727, Volumes 236-37-38, Benchbooks - Denis Murphy, Volume 237, Rex V. MacDonald, 16 November 1938.

74. Vancouver Sun, 17 November 1938.
75. BC Lumber Worker, 22 November 1938.
76. Ibid; Vancouver Sun, 17 November 1938.
77. UBCSC, JSP, Box 6, File 12, "Memo for Mr. Lucas Re: Address to Jury."
78. Vancouver Daily Province, 18 November 1938.
79. BCARS, AGD, GR 1727, Volumes 236-37-38, Benchbooks - Denis Murphy, Volume 237, Rex V. MacDonald, 16 November 1938.
80. The literature on working-class masculinity is vast and growing. The following is only a selection of this rich body of work: Sonja Rose, "Respectable Men, Disorderly Others: The Language of Gender and the Lancashire Weavers' Strike of 1878 in Britain," Gender and History 5:3 (Autumn 1993), 382-397; Mark Rosenfeld, "'It was a hard life': Class and Gender in the Work and Family Rhythms of a Railway Town, 1920-1950," in Constructing Modern Canada: Readings in Post-Confederation History Chad Gaffield, ed. (Toronto: Copp Clark Longman Limited, 1994), 329-369; Francis Shor, "Masculine Power and Virile Syndicalism: A Gendered Analysis of the IWW in Australia," Labour History 63 (November 1992), 83-99; Ava Baron, "An 'Other' Side of Gender Antagonism at Work: Men, Boys, and the Remasculinization of Printers' Work, 1830-1920," in Work Engendered: Towards a New History of American Labor Ava Baron, ed. (Ithaca: Cornell University Press, 1991), 47-70.
81. UBCSC, JSP, Box 6, File 12, "Memo for Mr. Lucas Re: Address to Jury." It was Stanton who provided Mrs. Rittenhouse with this somewhat appropriate nickname.
82. Lumber Worker 22 November 1938.
83. Vancouver Daily Province, 25 November 1938.
84. Ibid.
85. Denis Murphy, "British Principles of Government," Canadian Bar Review 2:7 (1924), 440.
86. Ibid., 441-442.
87. BCARS, AGD, GR 419, Box 473, File 68, "Preliminary Hearings - Rex v. MacDonald," 19-20; Vancouver Daily Province, 5 August 1938.
88. Please see Jack London, "What Is A Scab?," in Canadian IWW Songbook: To Fan the Flames of Discontent (Toronto: The Industrial Workers of the World, 1990), 65.

89. Goodrich, 189.
90. BCARS, AGD, GR 1727, Volumes 236-37-38, Benchbooks - Denis Murphy, Volume 237, Rex V. MacDonald, 16 November 1938.
91. BCARS, RBCSC (Vancouver), Assize Court Criminal Records, GR 2353, Volume 10, Number 140/38, Rex v. MacDonald.
92. BCARS, AGD, GR 1727, Volumes 236-37-38, Benchbooks - Denis Murphy, Volume 237, Rex V. MacDonald, 16 November 1938.
93. UBCSC, JSP, Box 6, File 12, "Memo for Mr. Lucas Re: Address to Jury."
94. Ibid.
95. Blomley, Law, Space, and the Geographies of Power, 173.
96. BCARS, AGD, GR 1763, File 1-176-4, T.W.S Parsons, Deputy Commissioner, BC Police to the Honourable Attorney General, 21 December 1938; Vancouver Daily Province, 26 November 1938; BC Lumber Worker, 29 November 1938.
97. Lumber Worker, 29 November 1938.
98. Vancouver Daily Province, 8 November 1938.
99. Ibid., 8 July 1938.
100. BCARS, JCMP, Add.MSS 1174, "List of Employees and Years of Service."
101. UBCSC, JSP, Box 6, File 24, Stanton to Cameron, 8 December 1938.
102. Ibid., Box 6, File 18, "Case Against Pacific Lime Company Strike-Breakers: Memo for Mr. Henderson [Crown Prosecutor]."
103. BCARS, AGD, GR 1763, File 1-174-3, Alex Henderson to Eric Pepler, Deputy Attorney General, 27 January 1939.
104. Ibid., Alex Henderson to Eric Pepler, Deputy Attorney General, 27 January 1939. Emphasis is mine.
105. Hay, 25.
106. BC Lumber Worker, 6 December 1938.
107. By the time of the trial McLennan was no longer secretary of the District Council having taken up the secretarial post for IWA Local 80 in November.

108. BCARS, AGD, GR 1723, File 1-176-4, "Report - Re: Strike Situation in Blubber Bay, BC." This report was filed by Sergeant Sutherland after the water supply at Blubber Bay had been tampered with. According to Sutherland:

This is undoubtedly the work of the imported picketers, who incidentally are not, nor were not, employees of the Pacific Lime Co., and have no direct interest in the strike. It is a significant fact that one Tod McLennan, organizer for the C.I.O. left here on the Union [Steamship]....

109. UBCSC, JSP, Box 6, File 24, Hole to Stanton, 12 November 1938.

110. Ibid., Box 6, File 12, McLennan to Stanton, 20 November 1938.

111. Ibid., Box 6, File 24, Stanton to Commissioner of BC Police, 24 November 1938; T.W.S. Parsons, Deputy Commissioner of BC Police to Stanton, 25 November 1938.

112. Ibid., Stanton to Cameron, 5 December 1938,

113. Ibid., Cameron to Stanton, 9 December 1938.

114. Vancouver Sun, 3 December 1938.

115. Stanton, Never Say Die!, 23.

116. Writers for the BC Lumber Worker often described the dirty, underhanded activities of the police and bosses as "brothel tactics."

117. Strange, 176-177. For a discussion of gender and the law please see Ngaire Naffine, Law And The Sexes, (Sydney: Allen and Unwin Limited, 1990); Catharine A. MacKinnon, "Feminism, Marxism, Method, and the State: An Agenda for Theory," Signs 7:3 (Spring 1982), 515-545.

118. UBCSC, JSP, Box 6, File 24, Cameron to Stanton, 24 November 1938.

119. Ibid., Hole to Stanton, 12 November 1938.

120. Ibid., Hole to Stanton, 12 November 1938; BC Lumber Worker, 22 November 1938.

121. Ibid., Box 6, File 12, Hole to Stanton, 25 October 1938.

122. BC Lumber Worker, 4 October 1938.

123. Hay, 36.

124. For a scathing account of such public "rituals of purification," please see Lewis Lapham, "A Bull for Apollo," Harper's (August 1994), 6-9.
125. UBCSC, JSP, Box 6, File 24, Mary Gardner to Stanton, 7 December 1938.
126. Ibid., Box 6, File 16, Stanton to Wismer, 19 December 1938.
127. Vancouver Daily Province, 3 October 1938.
128. Ibid.
129. BC Lumber Worker, 20 December 1938.
130. Vancouver Daily Province, 19 December 1938; BC Lumber Worker, 20 December 1938.
131. BCARS, AGD, GR 1723, File 1-176-4, "Report - Re Riot Blubber Bay Wharf Saturday September 17th., 1938."
132. Weinburger, 175.
133. BCARS, AGD, GR 1763, File 1-176-4, Mary Rittenhouse to "Attorney-General Wismer," 23 December 1938.
134. UBCSC, JSP, Box 6, File 16, Stanton to H.S. Coulter, Barrister, 29 September 1938.
135. Vancouver Daily Province, 19 December 1938.
136. Ottawa Citizen, 19 December 1938.
137. "Sovereign agent of choice" is taken from Naffine, 62-63.
138. Lapham, 9.

Conclusion

1. James Kelman, How late it was, how late (Toronto: Minerva, 1994), 310.
2. BCARS, AGD, GR 1763, File 1-176-4, quoted in Angelo Branca to the Attorney General, 6 January 1939.
3. Ibid., Branca to the Honourable Attorney General, 29 March 1939.
4. Ibid., H.L. Hansen to Honourable Gordon Wismer, 27 January 1939.

5. People's Advocate, 5 February and 16 March 1939.
6. BCARS, Strike and Lock-out file, GR 1695, B-7215, T-3004, Volume 936, Number 36, T.M Dickens, Deputy Minister of Labour to A. Tooth, 27 May 1939.
7. MacNeil, 23..
8. Bergren, 121-122. According to Bill White, the bitterness between strikers and replacement workers still lingers to this day on Texada Island: "[I]n Vananda [sic] there's guys who've never lived down the time they scabbed the Blubber Bay strike of [1938]. And to me, that's the way it should be. I love to see it. It makes you think people learn something after all." Please see Bill White, A Hard Man to Beat -- The Story of Bill White: Labour Leader, Historian, Shipyard Worker, Raconteur Howard White, ed. (Vancouver: Pulp Press Publishers, 1983), 149.
9. Phillips, 117; Gray, 36, 42 and 57.
10. Gray, 36.
11. Lembcke, 104.
12. The quotation is taken from Bryan D. Palmer, Solidarity: The Rise and Fall of an Opposition (Vancouver: New Star Books, 1987), 87.
13. Gray, introduction.
14. Loo, "Dan Cranmer's Potlatch," 131.
15. Tom Wayman, "The Limits of Realism," Inside Job: Essays on the New Work Writing (Vancouver: Harbour Publishing, 1983), 49.
16. Wythe Holt, "The New American Labor Law History," Labor History 30:2 (Spring 1989), 285.
17. Wayman, 50.

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