MAKING LABOUR LAW WORK for WORKERS
Union is a seasonal publication of the Alberta Federation of Labour (AFL). It is a magazine intended to provide insight and analysis into ongoing social, economic and political issues of concern to union activists, officers and staff. The AFL is Alberta’s largest central labour body representing more than 137,000 Alberta workers and their families.

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If you work in the province of Alberta, chances are you have a pretty good sense of how the labour laws operate and how they may or may not help you.

If you are a union activist or a group of workers wanting to join a union, you really start to see how the labour laws are stacked against you. If you are a farm worker, a live-in caregiver or a temporary foreign worker, then you see the full weight of our province’s injustice.

Labour law matters. Employers know that, which is why they spend so much energy lobbying to keep standards low and union protections thin. Workers need a similar understanding so that we can more effectively advocate for our interests. In Alberta that is never easy – the political cards are rarely dealt in our favour – but it is a necessary effort if we are to ensure that all workers in Alberta have safe, fair and reliable work.

The primary mandate of Union is to inform interested Albertans and union activists in particular about issues that affect them. And so this third issue of Union looks at the state of labour law in Alberta.

Labour law is a huge topic and so obviously we can only cover a small slice of the issues related to workers’ rights and protections. Yet we hope it offers a starting point for you to consider the various ways in which our laws need to be reformed so that workers can get a fairer deal in Alberta.

I hope you enjoy this issue of Union and I encourage you to sign up for a subscription if you haven’t already.

Gil McGowan
President

Making Labour Law Work for Workers

It is no accident that Alberta has the lowest unionization rate in the country, or that we have the weakest health and safety laws in Canada, or that we allow 12 year olds to work in restaurants. Labour laws come from politics and 30-plus years of Conservative rule inevitably shapes the rules governing the employment relationship, in all its facets. So this issue of Union takes an incomplete look at labour law – the ways in which it is broken and, more importantly, why it is broken.

Michelle Westgeest starts the examination by offering a new analysis of Alberta’s Labour Relations Board, looking at three cases that demonstrate a fundamental weakness in its application of the law. Bob Barnetson assesses the prospects for increasing legal protections for some of Alberta’s most vulnerable workers – farmworkers. And Tom Fuller tries to put a stop to the collective whining about labour laws and offers some paths forward to getting them changed.

We also offer an update on Alberta’s growing addiction to temporary foreign workers, look back on a historic strike in Lethbridge and deign to envision a future where work is “decent.” So take some time to read the insights within these covers and then roll up your sleeves and join the fight for better labour laws in our province!

We hope you enjoy this issue of Union.
Time to **Move Ahead**

Let’s quit complaining about Alberta’s labour laws and get on with changing them!

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**Tom Fuller**
By now it’s no secret that Alberta has some of the most regressive labour legislation in Canada. We in the union movement have been complaining about these laws for so long that we’ve started to sound like a broken record. Perhaps it’s time we stopped complaining and started acting. The point is not to understand how bad these laws are, it’s to figure out how to change them.

There are three avenues open to unions wanting to change the law:
• Persuade the government to change the laws.
• Elect a new government.
• Challenge the laws in court.

Unions in Alberta have always tried to lobby government on behalf of their members, but over the last 25 years such efforts have produced little in the way of results. Whether the topic is employment standards, pension rules or labour laws, successive governments of Alberta have tended to turn a deaf ear to labour’s arguments. The simple fact is that the Progressive Conservative Party in Alberta is generally hostile to the labour movement.

The Alberta Federation of Labour will continue to present the views of union members to government and opposition MLAs, but we clearly can’t count on this approach to change provincial labour legislation in the near future.

Change The Government

The labour movement encourages its members to take political action and to participate fully in the democratic process. However, one party has dominated the political life of Alberta for the last three decades, and the current government doesn’t have to go to the polls for several years.

Challenge The Laws In Court

Fortunately enough, recent decisions by the Supreme Court of Canada have expanded opportunities to challenge our province’s regressive laws. In June of 2007, the Court made a dramatic and precedent-setting ruling concluding that the right to bargain collectively is protected by section 2(d) of Canada’s Charter of Rights and Freedoms which guarantees Canadians the right to freedom of association. This is the first time in Canadian history that the right of workers to form a union and bargain a collective agreement has been given constitutional protection.

In a decision brought down in October 2002, the Court ruled that picketing was a form of expression, protected by section 2(b) of the Charter (freedom of expression). In its ruling, the court found that blanket bans on secondary picketing are unconstitutional. Taken together, these rulings provide the basis for a legal challenge to some of the worst aspects of Alberta’s labour laws.

Finally, back in 2001 the Court ruled that depriving farm workers of the right to unionize violates their right to freedom of association.

The Targets

Four key areas of Alberta labour legislation appear to be prime targets for a Charter challenge by the AFL and its affiliates:
• Alberta’s labour laws prohibit farm workers and domestic workers from joining a union.
• Alberta’s labour law contains a blanket ban on picketing during a legal strike at any place other than the striking employees’ place of employment.
• If a union-organizing drive is defeated because of blatant and illegal interference by an employer, there is no effective, legislated power available to Alberta’s Labour Relations Board to use to remedy the situation.
• There is no effective, legislated power provided to Alberta’s Labour Relations Board to prevent employers from bargaining in bad faith when bargaining a first collective agreement after a union becomes certified to represent a unit of workers.
The AFL has decided to take on these issues, through its 2007 Labour Law and the Charter Action Plan. It will, as the opportunity arises, challenge these unconstitutional Alberta laws through the appropriate forums – through discussions with the provincial government’s decision makers and legal challenges in front of the Alberta Labour Relations Board and the courts.

The Way Forward

Historically, unions have tended to view court action as a measure of last resort. There is a presumption in the union movement that our resources and energies are best spent in activities that directly involve our members, not on legal actions that rely on lawyers and judges. Furthermore, legal challenges are highly technical and very expensive and can take years to produce results. If the reason for going to court is to establish an important legal principle involving the constitutional rights of all workers in Alberta, it’s important to pick the right case with the right set of facts on which to base our challenge. That means the cases we pursue may not be the ones that immediately affect the most union members. Rather, they should be the ones that give us the best chance of winning and of successfully changing the law.

Such cases don’t come up every day, and for now the AFL is forced to play a waiting game. Once the Federation has identified an opportunity for a Charter challenge, it will have to build a coalition of unions prepared to fund the action. It’s slow and frustrating work but for the first time in decades, unions have a new opening to pursue labour law reform.

Of course, we can’t abandon our traditional tools of lobbying and political action. Winning real change will require continuous work on all fronts. Most importantly, we have to continue to educate union members, the public, and legislators about the sorry state of Alberta’s labour laws. The foundation for any successful union struggle always remains the same – “educate and organize!”
If these elements of Alberta’s labour laws are unconstitutional, why haven’t they been changed or eliminated?

The answer lies in another part of the constitution which defines labour legislation (except in federally regulated sectors of the economy) as a provincial jurisdiction. This means that a ruling by the Supreme Court on one province’s labour laws does not automatically apply in other provincial jurisdictions.

In 2001, for example, the Court ruled (in Dunmore versus Ontario) that the province’s legislative bar to unionization among agricultural workers was a violation of section 2(d) of the Charter. Seven years later, however, a similar bar remains in the Alberta Labour Relations Code.

In 2002, the Court ruled in a case from Saskatchewan (R.W.D.S.U., Local 588 versus Pepsi Cola) that a blanket ban on secondary picketing was an undue infringement of section 2(b) of the Charter (freedom of expression). The Court concluded that secondary picketing is legal as long as it doesn’t involve other wrongful conduct and that any legislated limits on this activity should balance the rights of picketers and those being picketed. Nonetheless, section 84(1) of the Alberta Labour Relations Code contains exactly such a blanket ban.

The government of Alberta is perfectly aware of these court decisions, and that these sections of the Labour Relations Code contravene the Charter. AFL President Gil McGowan says: “We’ve raised these issues with the ministers responsible for labour in the last two cabinets – they know at least some provision of the Code are in violation of the Charter but they haven’t move to change anything.” Since the government hasn’t seen fit to amend the Code, unions in Alberta will be forced to go to court and ask to have these laws overturned.

The issue raised by the bans on unionization for farm workers and on secondary picketing are legally straightforward, although challenging them in court may prove expensive and time-consuming.

The other two sections of the Code targeted by the AFL are more complicated. They involve the absence of any effective sanction against employers who interfere with workers’ constitutional right to join a union.

Two forms of union busting are involved. In the first, an employer who intimidates or otherwise interferes with a union-organizing drive may be found by the Labour Relations Board to have committed an unfair labour practice, but there is no effective remedy for such activities in the Labour Relations Code. Several other provinces in Canada allow for the automatic certification of the union in cases where this kind of misconduct occurs, but in Alberta employers can flout the law and get away with it.

The other form of union busting involves employers who deliberately stall negotiations for a first collective agreement, in the hopes of winning a decertification vote after bargaining breaks down. Again, this tactic (“bad-faith bargaining”) is technically illegal, but the Code contains no effective penalty for employers who adopt it. The AFL has proposed a measure used in other provinces, so-called “first-contract arbitration,” but the government has been unwilling to include any such provision in its labour laws.

Both the above issues have been analysed in depth in the last two issues of this magazine, but for now what we have to bear in mind is that they are more complicated than the bans on farm workers unionization or secondary picketing. In the latter cases, the problem is unconstitutional sections of our labour laws. That is easier to address than the absence in our laws of measures necessary to guarantee workers’ Charter rights. Nonetheless, the recent rulings by the Supreme Court do provide a way for unions in Alberta to try to have these rights recognized and protected in the Alberta Labour Relations Code. These rulings have confirmed what unions have been arguing for years: that “union rights are human rights.”
Most workers know that the employer holds most of the power at work. We are aware that the bargaining relationship between employers and employees is inherently unequal. Consequently, labour relations law has evolved to respond to the inequality and should offer protection to workers. Unfortunately in Alberta, the application of the law by the Alberta Labour Relations Board (ALRB) raises serious doubts about how well workers are protected.

As an example of protection denied, we can look at the issue of successorship and common employers. Labour codes in Canada attach bargaining rights to a particular business, not to a specific owner of that business. This allows the employer to change without union rights being extinguished by a switch in ownership. In addition, the Supreme Court of Canada has enhanced the protection by ordering labour boards to interpret successorship broadly, to prevent workers’ bargaining rights failing on a technicality.

Successorship and Common Employer Provisions

Successorships arise when an employer sells or otherwise disposes of a business or a part of a business. Without successorship, previously unionized employees could face the same job at the same plant with the same manager but with a different employer and without their union. Successorship declarations rule the new employer “replaces” the old owner, and bargaining rights remain intact.

Common employer declarations target “double breasting” or the practice of diverting union work to a related non-union company. In other words, it is designed to prevent a company from avoiding unionization by establishing a parallel company.

The AFL’s new Boardwatch Project (see sidebar) reveals important data on many critical union issues and the operations of the ALRB. Three cases are of particular interest regarding the important issue of successorship. In all three the LRB appears to disregard the Supreme Court direction and ignore the underlying purpose of the Code.
First Case: The Tale of Two Companies

In 2005, Finning Canada outsourced the work of its Component Rebuild Centre to O.E.M Remanufacturing Company Inc. and laid off its own workforce. Outsourcing does not ordinarily attract common employer declaration. However, O.E.M. was established using Finning capital and Finning remained the 100% beneficial owner of the venture. Consequently the International Association of Machinists and Aerospace Workers (IAMAW) Local 99 applied to the Board for common employer declaration.

The Board determined that Finning had fully created the economic vehicle performing the work declared common employer status and. If the story ended there, it would be a perfect example of how common employer analysis is supposed to work.

Finning appealed and the decision of the original panel was overturned. While the original IAMAW application developed over the course of three months of hearings and took 234 days to process, the reconsideration panel, led by Board Chair Mark Asbell, overturned the decision in less than two months.

The reconsideration panel took a much narrower view of the business transaction and came to the conclusion that, since the capital used to establish O.E.M. Remanufacturing came from Finning International and not the Component Rebuild Centre itself, the result was an unobjectionable outsourcing. The decision discounted the fact that the Component Rebuild Centre was a wholly owned subsidiary of Finning International and Finning International itself was named on the IAMAW certificate.

IAMAW applied to the courts for judicial review of the Board’s decision. The Court of Queen’s Bench upheld the Board’s reconsideration. Undeterred, IAMAW continued their fight and appealed to the Court of Appeal.

In a unanimous decision, the three Justices of the Appellate Court reinstated the original finding of the Board which declared O.E.M. to be a successor employer to and a common employer with Finning. The Court found the Asbell Panel’s contrary decision to be patently unreasonable.

While the end result was a victory for the workers, these rights were denied for nearly two years. The Asbell Panel failed the members by using the Code as a sword against them instead of the protective shield it is intended to be and in one fell swoop removed their bargaining rights.

Second Case: Bargaining Rights Timber

Another example of the Board’s failure to uphold the duty to act as a fair and impartial tribunal is the objectionable situation faced by the United Steel Workers of America (USW) Local 1-207 in their successorship battle with Foothills Forest Products.

The day after the union served notice to bargain, the predecessor employer, Weyerhaeuser, announced a closure. Later, all of the assets of Weyerhaeuser along with its timber licence were acquired by Foothills. The union immediately asserted its bargaining rights and filed a grievance in response to Foothills’ failure to recall by seniority in accordance with the collective

Boardwatch is a new database built by the AFL which catalogues all ALRB decisions. It was created due to a deepening sense of mistrust of the ALRB among the Alberta labour movement. The searchable database can generate reports based on a number of criteria including subject matter, Code section and Board member so unions can have a better understanding of how the ALRB approaches issues, and how individual Board members rule on matters. It can also identify key trends in interpretation over time. The AFL will produce database reports for AFL affiliates and other unions. For more information, contact Tom Fuller at the AFL.
agreement. Foothills ignored the grievances and refused to recognize the union as the legitimate bargaining agent.

USW applied to the Board for a successorship declaration. The application was heard by the Board three months after the initial application was made. The Board then took nearly two more years to render its decision. The implications are obvious – as the old adage says: justice delayed is justice denied. In labour relations, time is of the essence. Foothills was able to continue its refusal to recognize the union unabated while the members were denied their legitimate representation rights and communication between the union and its members remained severed for more than two years.

A short three weeks after the successorship was granted, a revocation application was brought before the Board. Another two weeks and USW lost the bargaining rights denied by the employer and the Board for over two years. The union raised the fact that it was unable to maintain contact with the employees for 30 months as a result of Foothills’ actions and asked the Board to dismiss the revocation application in the result. The Board declined.

On judicial review at the Court of Queen’s Bench, the union asked the Court to overturn the decision of the Board or to allow the union to present its arguments to a new panel. The original panel consisted of Leslie Wallace, Ron Pilling and Lynda Flannery.

The Court found the time delay irrelevant as it related to the successorship but relevant for the revocation application. The result is both decisions were allowed to stand. The logic here is simply unsound. It is difficult to see how the pebble cast by Foothills in its refusal to recognize the union became detached from the ripple that led to the revocation. It is akin to a suggestion that an egregious unfair labour practice would have no impact on a certification application.

Finally, the Board decision in the case of the International Brotherhood of Electrical Workers (IBEW) and Brown & Marshall Electric Limited highlights the disparity between the rights of employers and the treatment of unions in our cold labour relations climate. In 1975 Brown & Marshall sold its business to one of its employees and misrepresented to the new owner that it was, consequently, now a non-union company. On the union’s part, they were led to believe that Brown & Marshall was closed and no longer engaged in the industry. In 1999 IBEW discovered Brown & Marshall were still operating and approached the company with respect to its failure to adhere to the registration collective agreement. Brown & Marshall
responded by asking the Board to reconsider IBEW’s certificate and revoke its bargain-
ing rights by reason of abandonment. Abandonment arises when representation
rights are not exercised over a significant period of time by a union, and it gives up its
rights to be the bargaining agent.

The Labour Code limits revocation applications brought by an employer to where
no collective agreement has been in force for a period of three or more years. Since
IBEW’s certificate was governed by registration collective agreements, a collective
agreement did persist while Brown & Marshall concealed its business from the union.
Brown & Marshall urged the Board to use its discretionary reconsideration power to
revoke the certificate. The union argued the Board had no jurisdiction to revoke the
certificate in the indirect fashion proposed by the employer when it could not revoke
the certificate directly. The Board interpreted the scope of its power under the Code
to be broad enough to revoke a certificate so long as it did so in accordance with the
underlying principles of the Code.

To come to its conclusion, the Board had to reconsider earlier decisions which
found the reconsideration power could not be used to revoke a certificate in such
circumstances. In order to come to the alternate conclusion the Board established a
two-tiered set of rights for employers and unions to the employer’s benefit. Employer
misrepresentation is rewarded. Union no-fault abandonment is punished. Several
jurisdictions have recognized the potential for employer abuse in the construction
industry where short jobs and a fluctuating workforce make it easier for an employer
to conceal its operations from the union. Instead of creating a two-tiered system,
others have chosen to either make abandonment inapplicable to the construction
industry or strictly limit its use. The ALRB has chosen a direction that undermines
union rights and creates a fertile ground for employer abuse.

Conclusions

Successorship and common employer declarations provide one example of where the
Board has chosen to interpret the Code in a fashion that benefits employers despite
the Code’s remedial nature which recognizes the inherent inequality between the
parties. In other jurisdictions, that interpretive power is used to protect worker rights
— not so in Alberta.

What is to be done? There is no easy answer to this question. Legislative change is the
only way to ensure that the Board fulfills the stated purpose of the Code. With clear
direction from the Legislature, the Board cannot continue to deny workers their rep-
resentational rights. Some key areas that could be targeted are the explicit removal of
the application of abandonment in the construction industry and a mandatory time
bar on revocation applications following successorships.
The Regulatory **Exclusion of** Agricultural Workers In Alberta

**Al**berta farm workers have few rights under provincial employment standards and occupational health and safety legislation and cannot join unions.

Farm workers are excluded in order to minimize the costs of food production—costs that are transferred to workers through low wages and dangerous working conditions.

**Agriculture Employment in Alberta**

Farm workers can be found on both farms and ranches as well as in mushroom factories, greenhouses, nurseries and sod farms, although the majority of workers are involved in animal production, such as hog barns and ranches. Of the approximately 12,000 waged farm workers in Alberta, 2,600 work in a temporary or seasonal capacity and around 600 are foreign migratory workers.

**BOB BARNETSON, Athabasca University**

In 2007, general farm workers in Alberta earned an average of $13.13 per hour with a 46.6-hour work week. These wages are significantly below the average wage rate of $23.90 per hour. Piecework pay is a significant part of the wage mix, allowing farmers to fix wage rates and largely dispense with direct supervision: getting paid by the pound encourages hard work and long hours.

Piece-work pay also makes the employment of children (who are less efficient labourers) economically viable because payment is directly linked to production, rather than how many hours they put in. That is to say, failing to regulate wage rates can lead to child labour, which, because of the farm worker exclusion from the Employment Standards Code and the Occupational Health and Safety Act, is entirely permissible on Alberta farms.
History Of Farm Work

The continued exclusion of farm workers from basic statutory rights has a long history. This context is useful in understanding contemporary agricultural employment. Paid seasonal labour was essential to bring in the harvest between 1890 and 1929. Both governments and railroads worked to bring “harvest exclusionists” (i.e., temporary workers from central and eastern Canada) west for the harvest season.

Government also provided small land allotments at a low price that lured labourers seeking eventual landownership. Small plots allowed workers to homestead during non-peak periods but be available to work on other farms during planting and harvesting. The seasonal and transitory nature of agricultural employment meant that, by 1931, only 5% of the 93,316 waged agricultural workers were year-round employees.

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The peculiarities of agricultural production coloured employment relationships. Workers were typically isolated from one another, living with and working alongside their employers. The boundary between them was permeable (at least sometimes), with many workers being or expecting to become landowners themselves.

Farm workers managed work conflicts differently than industrial workers. The presence of multiple employers, highly localized labour markets, lots of short-term work, and significant time pressures generated by weather and the crop cycle allowed workers to withhold their labour, often by switching employers frequently to maximize earnings. Farmers sought to manage their workers in several ways. Individual farmers withheld some or all of a worker’s wages until the end of a contract or season. Collectively, farmers lobbied government to exclude farm workers from employment statutes as well as for wage regulation and a larger worker pool during the First World War. Farmers also colluded with one another and with provincial labour offices to set wages.

For its part, the United Farmers of Alberta (UFA) government avoided legislation entailing cost increases for farmers and used vagrancy laws to limit the willingness of workers to hold out for higher wages. Despite a significant expansion of statutory employment rights over the next 80 years, subsequent Social Credit and Progressive Conservative governments continued to exclude agricultural workers from them.
The romantic notion of a modern-day homestead providing a family with a wholesome living and the community with food is powerful. In this agrarian myth, farming is cast as a virtuous activity entailing personal sacrifice, for which society owes farmers debt. The agrarian myth is often invoked by claiming that the cost of regulation may imperil farms.

The use of powerful narratives allows agricultural supporters to substitute the issue of farm bankruptcy in place of the original concern about safe and fair workplaces. In doing so, they deflect attention away from the self-interest of producers and government in limiting production costs and the impact injuries have on workers. The economic vulnerability of farms is caused by the quasi-monopoly status of suppliers and customers, an arrangement that governments have legitimized, reinforced and supported. That is to say, poor working conditions are a government-sanctioned means of externalizing the costs of social reproduction onto farmers and, through them, farm workers.

**Political Economy of Agricultural Labour**

In the fields, greater mechanization occurred during the same time as a transition towards fewer and larger farms and the development of non-family owned producer and processing facilities. These changes are often cited as evidence that the “family farm” is giving way to large “commercial farms.” These terms are difficult to define and it is more useful to focus on increasing mechanization, size and specialization. Nationally, this trend has been very clear over time.

As “family farms” have often adopted these strategies to maintain their viability, they have found themselves selling their produce to relatively few buyers and purchasing materials from relatively few suppliers. In this way, farmers are price takers: they have limited ability to influence the price of necessary supplies or of what they sell their produce for. With such limited market power, the main cost farmers control is labour. Increasing mechanization generally reduces the labour needed to produce a specific quantity of product.

Reduced demand for labour combined with increasing land prices and start-up costs, meant many potential farmers (who undertook waged labour in hopes of becoming farmers) sought employment in other industries. Consequently, there have been shortages of cheap labour. During the late 1960s, the federal government began facilitating the use of temporary foreign workers (e.g., from Mexico and Caribbean countries) to address the shortage of Canadian farm workers.

The federal and Alberta governments have also facilitated minimizing labour costs since the late 19th century, partly by leaving agricultural employment unregulated. The reason for this is that low labour costs reduce the price of food. This cheap food policy, in turn, reduces wage demands from industrial workers and, in turn, frees up their income to spend on other consumer products. This meets the needs of both businesses and non-agricultural workers and is a form of state subsidy to the business community.

As a strategy for maintaining low food prices, the statutory exclusion of waged agricultural workers works to the advantage government, agribusiness and farmers—those who make
and influence agricultural policy. The government of Alberta has repeatedly justified not applying employment statutes to waged agricultural workers due to the expected cost of doing so.

It is interesting to note that politicians identify farmers as the key source of pressure to exclude workers from statutory protection. The gerrymandering of Alberta’s electoral boundaries provides rural voters (who traditionally elect Progressive Conservative candidates) with significant policy influence. It may be that the tenuous economic position of farmers means they feel compelled to pressure government to maintain the current system, even though it disproportionately advantages business.

**Prospects for Change**

It seems unlikely that Alberta farm workers will gain statutory protection or access to collective bargaining. In addition to facing hostility from farmers, agribusiness and the government, farm workers are difficult to mobilize. They continue to be geographically dispersed and dissatisfied workers can simply quit and find another job. The government is also both projecting a surplus of agricultural workers through 2016 and working to ease employer access to temporary foreign workers.

Many farm workers also have confusing relationships with their employers by the standards of modern industrial employment. They may live with their employer, work alongside them and, indeed, have a family relationship with them. They may also identify with their community and, to the degree they are socially included, have much to lose by organizing.

The interests of Alberta farm workers have, periodically, found voice. The nascent Farm Workers’ Union has sporadically made representations to the Alberta government and media comment, but has few resources or members and no representational capacity. Both the Alberta Federation of Labour and, predominantly in Ontario and Manitoba, the United Food and Commercial Workers (UFCW) have campaigned for legislative protections for farm workers. Farm workers have gained modest associational rights as well as health and safety coverage in Ontario and employment standards coverage in Manitoba.

**Conclusion**

The exclusion of farm and ranch workers from the minimal employment rights all workers expect governments to provide them with reflects a complex dynamic. The absence of worker rights allows farmers to minimize their labour costs. Farmers exert significant pressure on government to maintain this situation because exploiting workers is one of the few means farmers have to coping with the intense fiscal pressure they face from agribusiness.

Government responds to the pressure of farmers and other rural voters dependent on farming because the government has given rural voters a disproportionate share of electoral seats. An expected redistribution of seats towards growing urban areas may reduce the power of the farm vote, but will not eliminate it. This suggests that efforts to increase the rights available to farm workers—the right to know about hazards and refuse unsafe work, a ban on the employment of children, and the right of farm workers to organize and bargain collectively—face significant structural barriers.

Governments often sidestep the question of whether employment is adequately regulated by invoking the myth of the free market. This narrative ignores that the market is neither free nor particularly effective producing the inputs it needs to continue functioning: governments have never been more involved in regulating the economy and checking its crisis tendencies. For example, the governments of Alberta and Canada intervened significantly to bail out farmers affected by the market collapse following the discovery of bovine spongiform encephalitis (BSE) among Canadian cattle. The provincial government also intervenes to subsidize farmers via an exemption from the (unknown) costs of conforming to basic employment laws. In both cases, the provincial government is intervening in the market to advantage farmers and the rural communities that rely upon them—communities that both typically vote Conservative and are over-represented in seats.
On December 1, 2007, Alberta had a new city – one comprised solely of temporary foreign workers (TFWs). They are obviously not all in one place, but if you did put all the TFWs in the province in one spot, they would immediately make up the 10th largest city in Alberta — larger than Airdrie, Leduc, Spruce Grove or Camrose. In fact, it wouldn’t terribly smaller than Grande Prairie. The significance of December 1st is, on that day, the government of Canada admitted there were 37,257 temporary workers in Alberta, a 69% increase in a year. The number of TFWs in the province has spiked 325% in five years. And when the December 2008 numbers come out, every observer expects another jump. (And this number does NOT include farmworkers and live-in caregivers who arrive under a different program.)

That number is clearly a medium-sized city in Alberta. But it is more than that. We have passed another threshold. TFWs are now a measurable component of our workforce, comprising 1.8% of the workers in Alberta. In August 2008, there were about 73,000 unemployed workers in Alberta – twice the number of TFWs in the province.

The rapid growth in the number of TFWs is startling. But more importantly it reveals a disturbing trend. We are becoming more reliant on temporary workers for labour force management. TFWs are no longer a quick fix to a short-term problem. They are becoming an entrenched element of human resources strategies.

Yet the picture of overall numbers is insufficient to reveal the consequences of this trend. We need to dig deeper into the TFW reality to understand its implications for our province.

The Downshifting of Skills

The TFW program is not new. It has been around for decades. Its designed purpose was to allow for professionals such as scientists, engineers and academics to work in Canada for a short period of time. It was only a few years ago, under the federal Liberal government, that the program morphed into what it is today.

This can be seen in the trend lines on occupations brought into Alberta. In 2003, a couple of years after the expansion began, highest skilled occupations – including scientists, finance professionals, nurses and senior corporate managers— made
up 48% of TFWs whose occupations were identified. Only 2% (or 183 workers) came from the lowest skill occupation category (labourers, retail sales, etc.). Skilled occupations such as construction trades and technical jobs made up the remaining half.

In 2007 those numbers had shifted radically. The lowest skill category now makes up 21% of known occupations. And the highest categories are only 1 in 4 (25%). There has been a marked downshifting in the skill levels of TFWs in this province.

The most marked increases come from two surprising sources. “Elemental sales and service occupations,” such as retail sales, fast-food service and gas station attendants went from a virtually non-existent 141 workers in 2003 to 3,681 today. In fact, combining this category with the “intermediate sales and service” – which are the same jobs, simply requiring more training (working at a higher end restaurant compared to Burger King) – we find there are 9,261 TFWs in this occupation. This is the single biggest occupational cluster.

The second biggest increase is the occupation of “labourers” – the unskilled helpers in construction, manufacturing and utilities industries. In 2003, there were 42 labourers with TFW work permits. Today there are 2,657.

Consider this juxtaposition. Five years ago, the program was used to bring in professors, engineers and other technical skill sets that were difficult to find at times. Today, the same program brings in plane loads of cooks, servers and gas attendants. Is that because the skills of a Burger King server have become as scarce as engineers? No, it is because Alberta employers and the Alberta and federal governments are using the program for new purposes. Rather than a quick fix to a short-term problem, the TFW program is now being used as a mainstream human resources strategy. Foreign recruitment has become a normalized tool in a manager’s kit.

Where’s Tempville?

Is there a specific spot on the map that comprises the bulk of Tempville? This is a statistic that has not changed much over the past five years. The bulk of TFWs work in either Edmonton or Calgary (53.4% in 2007). The remaining half are scattered across all of Alberta’s communities, large and small, without any particular cluster.

Interestingly the third biggest destination is Fort McMurray (Wood Buffalo), but only 2.1% of TFWs land there (781 workers). The oilsands operations are not flooding the camps with TFWs. Neither are they coming to fill harder-to-find jobs in small centres, where the labour pool is smaller.

TFWs are arriving in the large cities with the largest, most diverse labour force, with the greatest access to youth, women and other workers with greater-than-average levels of unemployment and labour force non-participation. The geographic patterns also tell us they are not arriving to work on big construction jobs — those jobs are temporary. They are filling jobs which will be needed five years from now just as much as today.

Where Are They From?

Unfortunately, Citizenship and Immigration Canada does not release data about where TFWs come from. However, through the work of the AFL’s TFW Advocate and other community activists, we can glean certain patterns. A couple of years ago, more eastern Europeans, usually with construction trade occupations, were arriving. The numbers of Polish, Latvian, Croatian, Hungarian and other workers appears to be on the decline. Instead, we are seeing greater numbers of workers from two regions: Southeast Asia (Philippines, Thailand in particular) and Central America (Mexico, El Salvador, etc.). There are also a significant portion of South Americans in the mix.
In addition to this shift in country of origin, we are also seeing growing numbers of women coming across in the program. Again no statistics are released.

**Consequences**

What does this mean for Alberta? In short, it may be the beginning of a fundamental shift in the nature of the Alberta labour market and, ultimately, society. And it does not promise to be a positive shift.

First, we need to come to grips with the reality that TFWs are not so temporary. While the faces may change, the existence of temporary, migrant workers in our workplaces and communities is likely here to stay. In a narrow sense, this means issues of language, integration, cultural sensitivity and racism will continue to swirl around our workplaces, meaning unions and employers will need to establish more permanent programs to address these tensions.

And given the usual practice of employers to drag their feet on such initiatives, it will be up to unions and workers’ advocates to find creative ways to assist the TFWs and encourage integration with resident Albertans. This is something few unions have grappled with to date, but more will be forced into considering it over the next few years.

More broadly, Alberta is in the midst of constructing a permanent underclass of vulnerable workers. These workers will possess the less desirable of service and labourer jobs, vacated by resident Albertans due to their poor wages and working conditions. Their temporary status will prevent the TFWs from organizing or advocating for themselves to substantially improve their working conditions.

The presence of such a permanent vulnerable class dampens the economic forces that normally would force improvements in these occupations, thus entrenching current inequities, unfairness and exploitation.

This will contribute to polarization of our labour market – where there is a supply of well-paid, stable “good jobs” propped up by a large amount of contingent, vulnerable “bad jobs.” Polarization has been well underway for the past 15 years, but a regular reliance on TFWs will hasten its pace.

Further, our economy will grow to resemble the dark side of the European economy. While Europe’s trade union strength and relatively more social democratic traditions make their societies radically different than North.
America, few Europeans are willing to openly acknowledge that much of their present prosperity is due to a permanent class division between European “citizens” and “migrant workers.”

In Europe, the term “migrant” must be placed in quotations, as many of these temporary workers – who hold no citizenship or permanent residence rights – have lived in Europe for more than a decade with accruing rights. It is estimated there are more than 5 million migrant workers in Europe.

There is a distinct stratification of European society between the wealth and security of the average EU citizen and the poverty and insecurity of the sub-class of foreign workers. The two do not mix in society, leading to ghetto-ization in Europe’s cities and towns. In the economy, not surprisingly, the migrant workers fill the “bad jobs” with poor pay, working conditions and security. Not unlike Alberta.

Clearly 37,000 TFWs is a far cry from 5 million migrant workers. Yet, we cannot be complacent in thinking a growing number of TFWs in Alberta would have a different result. Our employers are, if anything, more exploitative than European employers given our lax labour laws and skimpy legal protections for TFWs.

**Conclusion**

Until this point, government policy regarding TFWs has been driven by employers and the Liberal and Conservative politicians they support. Therefore we should not be surprised at the results to date.

There is time, however, to reverse the trends of the past five years, before Tempville becomes Alberta’s fourth or third largest city.

Two solutions are necessary, each working concurrently. First, advocates, unions and Albertans need to work to protect the basic working rights of TFWs while they are here. Employers need to be held accountable for abuses and contraventions of labour rights. This will not happen through government in the short term. It will require communities and activists to work together to build an expectation of dignity for TFWs.

Second, the TFW program needs to be returned to its initial intent – a small program for high-skilled workers. If the TFW tap is shut off, employers will be forced to find other means to satisfy their employment needs. Maybe they will begin looking at aboriginals, youth, women and other Albertans whose labour market outcomes are behind the average. Or, maybe, they could adopt the novel idea of increasing their wages and improving working conditions. That might be a start.

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**SOME MYTHS AND FACTS ABOUT TFWs**

- **MYTH:** Most TFWs in Alberta work in construction.  
  **FACT:** Only 11.4% of TFWs work in construction. The largest portion work in retail, food and hospitality.

- **MYTH:** TFWs are predominantly in Fort McMurray.  
  **FACT:** The Wood Buffalo Municipal District (Fort McMurray) has only 2.1% of Alberta’s TFWs.

- **MYTH:** TFWs have the right to apply for permanent immigration.  
  **FACT:** Only a small fraction of TFWs ever become eligible to stay in Canada through the Provincial Nominee Program. Fewer than 1,000 of the current stock of TFWs are likely to be found eligible.

- **MYTH:** Recent changes to the program will allow more TFWs to stay permanently.  
  **FACT:** The new “Experience Class” program will only apply to the high-skill TFWs. Low-skill TFWs are not eligible.

- **MYTH:** Most TFWs don’t want to stay in Canada.  
  **FACT:** The AFL’s TFW Advocate found the majority of her cases came to Canada hoping to remain permanently. They often were mislead about their rights to do so by unscrupulous brokers.
On September 24, 2008, in a supervised vote ordered by the Quebec Labour Board, members of CEP Local 175 rejected the employer’s final offer by 96.5%; the actual vote was 8 Yes, 219 No. Members of Local 175 have been locked out by Petro-Canada since November 17, 2007! Why such a long dispute and such incredible solidarity?

Background

CEP and its predecessor energy unions (ECWU, OCAW) have a pattern bargaining system that goes back to the early 60s called the National Bargaining Program. It deals with a few basic items such as term, wage increases, vacation, severance and similar issues that are common to the diverse participating groups (refineries, gas plants, petrochemicals, oilsands, terminals). Though the bargaining program is limited in scope, it has coast-to-coast application.

Since a number of CEP Petro-Canada bargaining units had an unsuccessful strike over pension improvements in 2001, Petro-Canada has been bent on destroying CEP’s National Bargaining Program. The 2001 dispute was extraordinary because pension and health and welfare benefits are not part of the National Bargaining Program—unionized employees of oil companies are covered by the company’s benefits package, along with the engineers, supervisors and top management. The company saw the 2007 bargaining round and its Montreal refinery as an opportunity to attack national bargaining.

The 2007 pattern settlement was established between Petro-Canada, Edmonton refinery and CEP Local 501-A in late April 2007 and was then ratified on May 13 by the CEP National Bargaining Conference which brings together delegates from all participating bargaining units from all the employers in oil, gas and petrochemicals.

The pattern is:

- Term: three-year agreement
- Wage increases: 5%, 4.5%, 4.5%
- Shift premiums increased by the same percentages
- Retroactive to February 1, 2007

Over the next eight months, all of the participating bargaining units in the program reached a settlement at their locations without a dispute and without any rollbacks in local bargaining.
In 2006, Local 175 adopted the CEP National Bargaining Program and voted to participate in the Supplemental Defence Fund set up to support locals. This special defence fund is funded directly from members through weekly contributions and supplements the union’s standard national strike pay of $250 per week.

Notice to bargain was given on December 6, 2006 and preliminary contacts between the parties indicated that there would not be any strike or lockout issues in this round of bargaining. The previous round had been a long drawn-out process; both parties had countless demands and this time the parties agreed to limit the number of demands. So the union was quite surprised when company demands of a general nature were finally articulated and represented huge claw backs and a blatant attack on union rights. The company demanded a different term of agreement, retroactivity and other provisions that failed to meet the national pattern.

A key issue in the bargaining is that Petro-Canada wants to begin a major new investment in a new coker (to refine heavy oils) in Montreal, similar to the one recently completed in Edmonton.

The company wanted a deal with the union to shelter the coker project from a labour dispute in the next round of bargaining, which, according to the National Bargaining Program, would start in early 2010, in the middle of the coker construction. Therefore the company tabled a six-year contract (breaking with the current national bargaining pattern) with wage adjustments for the last three years being an “average” between wage increases granted at its Edmonton refinery and those at its Mississauga Lube plant. This averaging proposal also directly contradicts the union demand that any “me-too” agreement would give Local 175 the national bargaining settlement for the industry in 2010.

With hardly any progress in bargaining, the union took a strike vote on September 26, 2007. With close to 90% of membership voting in a secret ballot, 99.6% voted to strike.

In close to 30 bargaining meetings (half of them with a conciliator) prior to the lockout, the company did not really bargain (that is, try to settle issues) but simply worked towards a final offer imposition which came on November 13th. The company presented the union bargaining committee a “final offer” conditional on it being ratified by November 21st. The next day, the company had the “final offer” hand delivered to each and every member. Local 175 responded by explaining the “final offer” to the members and called a membership meeting for November 21st.

On Saturday, November 17th, around 12:30, Petro-Canada locked out its 260 employees, betting that on November 21st they would embrace the “final offer.” Employees were told by management that Petro-Canada would never give them a better offer.

The company had been preparing for the lockout. From March to September 2007, approximately 20 employees were promoted to management positions. In addition, the former local union president, vice-president and maintenance shop steward had also “joined” the management “team” prior to 2007 and would prove to be the staunchest anti-unionists during the lockout.

As soon as the strike vote was taken, management personnel began to sleep on the premises (administration personnel was moved offsite and their facilities converted into dormitories).

**Petro-Canada’s Strategy**

The company had been preparing for the lockout. From March to September 2007, approximately 20 employees were promoted to management positions. In addition, the former local union president, vice-president and maintenance shop steward had also “joined” the management “team” prior to 2007 and would prove to be the staunchest anti-unionists during the lockout.

As soon as the strike vote was taken, management personnel began to sleep on the premises (administration personnel was moved offsite and their facilities converted into dormitories).
The company’s plan was that if its final offer was not accepted on November 21, 2007, the lockout would continue and in five or six months, the local union and the collective agreement would be broken and the National Bargaining Program destroyed. Petro-Canada, “the pattern-maker,” would have become “the pattern-breaker” and could rely on a domesticated local union for years to come. This would be the safe environment the company wanted to ensure before going ahead with the coker construction.

Petro-Canada pursued this strategy aggressively: it reduced its offer, including retroactive pay, in a bargaining meeting in mid-December and when talks resumed in mid-March, it added eight new demands for rollbacks on the current agreement.

Early in the lockout, the company obtained a court order limiting picketing to five picketers per entrance at least 15 feet from the entrance. To make matters worse, the Court forbids demonstration in the vicinity of the refinery and any secondary picketing (namely Petro-Canada gas stations). CEP is fighting these provisions in the courts. In December 2007, the company fired two employees for “alleged death threats.”

Management personnel continued to try and operate the refinery by working 60 to 84 hours a week and sleeping on site. Local 175 had proof of widespread anti-scab violations and government inspectors found that Petro-Canada employed at least 34 scabs.

A high point of company arrogance occurred in March when management personnel held a “100-day lockout costumed celebration” (the refinery manager was dressed up as Neptune and two females managers as mermaids). The refinery manager raised a toast to another 100 days of lockout!
Once the lockout was imposed, the local union began to organize its resistance. At the end of November 2007, the 1,200 delegates at the Quebec Federation of Labour convention passed an emergency resolution supporting Local 175 and asking its affiliates to stop buying Petro-Canada gas for the duration of the lockout.

With the support of the CEP National Executive Board, a country-wide tour was organized to explain the lockout and to seek recurrent financial contributions in support of Local 175. Given the size of the group (about 260 members), their active participation in picketing (24/7), in demonstrations, in special teams (service stations), in communications (website, pamphlets, etc.) was deemed crucial and therefore focus was put on defence payments instead of encouraging members to take alternate employment.

To fund supplementary lockout pay and to cover health and welfare benefits of $45,000 per month, a major solidarity campaign was needed to raise financial support. The response from bargaining units at other Petro-Canada locations, as well as from Shell, Imperial Oil, Suncor, Husky, Duke Energy, AT Plastics and Local 914 (petrochemical composite local) in the Sarnia area and many others in CEP’s National Bargaining Program has been outstanding. The union proved that it could raise the extra support for the group to withstand a long dispute and maintain their solidarity and determination. After almost half a year on the picket line, the union’s energy bargaining caucus came together to reconfirm their weekly support at a special national bargaining conference held in Montreal May 24 and May 25, 2008.

Other boycott and lump-sum financial support has been provided by other Quebec Federation of Labour affiliates as well as many Quebec unions (CSN, CSQ, SPGQ, etc.)

CEP officers and the National Executive Board have provided sustained financial, legal and logistical campaign support.

The CEP national union declared that the fight in Montreal at Petro-Canada is a national struggle to defend the union’s pattern-bargaining system.

At the end of April 2007, the union took the fight into the corporate arena by holding a conference with financial analysts and attended the company’s annual shareholders meeting in Calgary. The union chief negotiator got an opportunity to speak with CEO Ron Brenneman and was able to raise a question during the meeting. Mr. Brenneman’s comments to the shareholders led us to believe that the company genuinely wanted to settle the dispute.

However, bargaining after the shareholders’ meeting proved as painful as before. In early May the company presented yet another “global offer” and gave the union eight days to accept. On May 8th, CEP Local 175 charged Petro-Canada before the Labour Relations Board (LRB) with obstruction, meddling in union business and bargaining in bad faith.

On June 4, the LRB ordered Petro-Canada:
- to stop trying to hinder CEP activities;
- to stop trying to interfere in union activities;
- to stop trying to dominate the union;
- to not attempt to create “double” negotiations;
- to cease intimidating or threatening employees; and
- and, most importantly, to bargain in good faith.

By now it was clear that Petro-Canada’s strategy had failed. At the same time financial support to locked-out members increased after the special national bargaining which made them more determined than ever to gain respect and achieve a win-win negotiated settlement.

Exploratory talks over the course of the summer led to a resumption of bargaining with the conciliator on August 27th. However, it became obvious to the union that the company was looking to settle cheaply and continued to doubt the bargaining committee’s mandate. The company reverted back to its “arrogance and intransigence” mode.

**Union Strategy**

Local 175 had proof of widespread anti-scab violations and government inspectors found that Petro-Canada employed at least 34 scabs
On September 10th, Petro-Canada presented a third “final offer” which included its version of a back-to-work agreement and, in violation of the LRB order of June 4th, had the agreement, along with a summary and personal monetary profile, hand delivered to each and every member of Local 175. The union went to the Quebec Labour Relations Board for a ruling that the proposed a supervised vote on the company offer. On September 24th, the company was shocked by the 96.5% rejection of its offer.

### Possible Outcomes

The union believes that it is now time for Petro-Canada to come to terms with Local 175 and CEP and genuinely work towards a negotiated settlement to end the dispute. However, the company could decide instead to “dig in” and try to punish the workers for having refused its “final offer.”

The union is preparing for the latter by seeking additional support from CEP, Quebec Federation of Labour affiliates and other Quebec labour organizations, both for ongoing and increased financial support and a stepped-up boycott of Petro-Canada gas stations in Quebec and possibly across Canada. On September 25th, the General Council of the Quebec Federation of Labour (for the first time in over 30 years) officially called for a public boycott of Petro-Canada in Quebec.

The CEP will be holding its constitutional convention in Montreal at the end of October 2008 and, in conjunction with Local 175, is planning a series of solidarity activities and looking at country-wide actions. Another dozen days of hearings are scheduled in October at the Quebec LRB over Petro-Canada’s use of scabs and the union is confident there will be additional rulings against the company. In the meantime, the management personnel operating the refinery are worn out and discouraged (they were sure the “final offer” would be ratified on September 24th).

Petro-Canada gas sales in Quebec are down 10% to 15%, the refinery is operating at around 50% and the company is buying refined gas on the market to maintain supply to its outlets. We at CEP believe it is time for Petro-Canada to do what it should have done from the beginning: NEGOTIATE a win-win agreement respectful of the workers, the local union and the national union.
The 1906 Lethbridge coal strike

Alberta Coal Miners Change Canadian Labour Law

Jim Selby

When United Mine Workers organizers came to the little company mining town of Lethbridge (population under 3000) for a Sunday afternoon meeting on February 18, 1906, they received a warm welcome.

Three hundred and sixty-three of the 417 coal miners (87%) employed by the Galt family’s Alberta Railway and Irrigation Company (see sidebar on Galt family) immediately joined the new Local 574.

By the end of February, the union had sent a proposal to the company asking for a raise in pay, an eight-hour workday, an independent verification of the weight of coal produced by each miner (they were paid by the amount of coal dug) – also called a check-weigh system — and a grievance procedure.

Miners also wanted to be paid for all the coal dug – current practice was to pass coal over a screen and to only pay miners for coal large enough not to fall through the holes. Finally, they wanted a union dues check-off and official recognition of their union.

The company rejected the demands out of hand – they refused to even reply to the union’s letter. On March 8th, Frank H Sherman, President of District 18 of the United Mine Workers of America held a meeting of miners in Lethbridge. The next day the miners walked off the job. They were to remain on strike for nine bitter months.

The strikers had a great deal of sympathy from the rest of the citizens, almost all of whom depended upon either the miners or the company for their livelihoods. Moreover, according to the Lethbridge Herald, the strike was very peaceful. On March 29, 1906, the paper said: “All is peace and quiet at No. 3 [the Galt colliery]. The strikers are acting in a very orderly manner. As a matter of fact, strangers coming to town would be unable to detect a strike, as outwardly, all is calm. Tuesday afternoon ([March 28th] fully 325 miners marched around the square ..."
Martial Law In Lethbridge

This description was in sharp contrast to the company attitude. They asked for and received a special detachment of Royal North West Mounted Police to guard mine property and to protect the strike breakers they were employing in the mine. The Mounties were said to have placed the mine property and village under "martial law."

In opposition to the peaceful conduct of the strikers, the police were heavily criticized by the Lethbridge Trade and Labor Council at a special meeting on March 14, 1906 for "entering miners' houses at number three and by their presence, intimidating foreigners who do not understand that this is a free country and that no man needs to work if he don't wish to." The mine and miners' houses were simply called 'number three.' Number three was outside the jurisdiction of the town – being considered private company property. According to Frank Sherman, there was no danger of trouble unless the strikers were "driven to it by acts of injustice."

Violence And Company Agents

Early in April, the strike began to lose its peaceful demeanour. On Tuesday, April 3rd, one of the strikebreakers left the guarded company compound and was set upon by miners and miners’ wives. The following night, the police triggered a full-scale confrontation with the strikers when they attempted to arrest one of the picketing miners — the situation escalated into a hand-to-hand battle with the police.

During the melee, two houses occupied by strikebreakers and their families were dynamited. No one was hurt, and the houses were only damaged — not destroyed, but the incident swayed public opinion against the strikers.

The incident was also used by the police to justify their heavy presence in Lethbridge. Things remained fairly quiet until August 12th when another strikebreaker’s house was dynamited – although this time only the front door and veranda was damaged. Again, both of the town’s newspapers condemned the strikers for the violence. One of the striking miners, Peter Oshasky, was arrested and charged with the crime.

Company Deception About Coal Production

The union then dropped a bombshell by revealing evidence that the various explosions during the strike had been the work of an employee of the Thiel Detective Agency (an offshoot of the infamous Pinkerton Detective Agency) from Chicago who had been hired by the company to infiltrate and discredit the union. Although the company denied the charge, the person identified as the agent provocateur immediately fled to the United States. Ultimately, the charges against Oshasky were dropped and he was released.

The union charged that very few actual miners were working during the strike and that most of the movements of coal cars were a sham designed to intimidate the strikers. The company, on the other hand, announced that they had about 150 men working and that the mine was producing efficiently.

However, later examination of the company’s records showed that coal production in 1906 was only 90,000 tons compared to 260,000 tons from the previous year. If you assume that in the 13 weeks before and after the strike production was average (5,000 tons per week), that would lead you to conclude that only 25,000 tons of coal were produced during the entire nine months of the strike.
LETHBRIDGE STRIKE SPAWNS FIRST LABOUR CODE

The Lethbridge coal strike of 1906 was the precipitating factor in the creation of Canada’s first and, arguably, most influential labour code, the Industrial Disputes Investigation Act (IDIA) passed by the Laurier liberal government in 1907.

As the strike created a public heating fuel crisis in the unusually bitter winter of late 1906, there was a massive public demand for the Laurier government to do something to resolve the dispute. The government sent out their Deputy Minister of Labour, 32-year-old William Lyon Mackenzie King.

King, who was later to become the longest serving prime minister in Canada (after a brief stint as industrial relations manager for the Rockefeller corporate empire in the U.S.A.), was the only person in the government considered to have any real knowledge of labour relations (he completed a thesis on sweated labour while at University).

After mediating the strike and effecting a settlement, King returned to Ottawa where he created law that was supposed to prevent strikes that impacted the public good.

The entire focus of the Industrial Disputes Investigation Act was to delay (and to prevent) strikes in mining, railways and public utilities. If either an employer or union in those industries applied for mediation under the Act, then a compulsory three-person Board of Conciliation and Investigation was struck (one labour nominee, one employer nominee and one neutral to be appointed by government) with the power to summon witnesses, compel testimony under oath and to commit for contempt. During the Board’s deliberations, workers could not strike and employers could not lockout. However, the Board’s recommendations for settlement were not compulsory.

Labour rejected the IDIA because it disarmed unions but did nothing to employers. The IDIA removed the only effective weapon in the hands of workers – the right to strike. However, employers could continue to use their powers to hire strikebreakers, fire and blacklist union activists and physically and psychologically intimidate and bully their workforces.

Further, the Act portrayed government as a neutral party in labour disputes, whereas working people were all too aware of the alignment of interests between the Liberal and Conservative Parties and the Canadian economic elite. Labour had little reason to expect a government-appointed Chair to sympathize with workers’ interests.

Finally, fines for violating the Act were biased against workers. A maximum fine of $1,000 a day to an employer for an illegal lockout pales in comparison to the maximum $100 per day each striking worker would face (consider that miners’ wages were about $3.00 per day at the time).

The deliberate delay of workers’ ability to exercise their right to strike, and the portrayal of work stoppages as inherently unacceptable acts (instead of democratic exercises) is still one of the dominant characteristics of Canadian labour law.
The Galt family already had a reputation for buccaneer land and rail development before they came to Alberta. Sir Alexander Tillock Galt, one of the “Fathers of Confederation”, came to Canada at the age 18 with his father, John, who was the commissioner of the Canada Land Company. The company was allied to the Tory elite and had an unsavoury reputation.

Alexander, following in his father’s footsteps, became commissioner of the newly formed British American Land Company and later President of the St. Lawrence and Atlantic Railway. According to A.A. den Otter, author of Civilizing the West: The Galts and the Development of Western Canada, “He {Alexander] had discovered that the formula for personal success was stunningly simple: form a company, retain controlling interest in the stock, float public bonds secured by an accommodating government, award fat construction contracts to insiders, and reap the profits in the end.”

This formula was well evident in the Galt development of Lethbridge. The area first came to the attention of the Galt family when Alexander’s son, Elliott, in his capacity as Assistant Commissioner of Indian Affairs, visited a small coal mining operation run by an American who had come north as a whiskey trader. After testing revealed that the coal was of superior quality, Alexander Galt formed the North West Coal and Navigation Company (later the Alberta Railway and Irrigation Company) with wealthy English investors (the largest shareholder and first President was William Lethbridge).

Galt then secured a contract to supply coal to the newly constructed Canadian in Pacific Railway (built with public money, at one point having the exclusive coal contract with the CPR between Winnipeg and the Rocky Mountains.

The government of Canada supplied the Galts with a land grant of 1.5 million acres to help them finance a rail line from Lethbridge to Dunsmuir on the CPR line completed in 1885. The government also sold them an additional 4,050 hectares at a very cheap rate. Lethbridge (originally called both Coalbanks and Coalhurst) was a classic company town. It was designed by the Galts who as the major landlord and employer dominated the affairs of the town.
What do you think about when you read about an international campaign for decent work? Does your mind go to workers in the southern hemisphere – perhaps agricultural workers out in the fields or plantations? Or perhaps to exploited workers sitting on the ground of sweatshops and crammed into factories?

These workers certainly spring to mind and they certainly deserve our solidarity. However, the current campaign for decent work launched by the International Trade Union Confederation (ITUC) tries to bring the story home to all workers in all countries. The ITUC set itself an ambitious goal. But when you stop to think about it, decent work and the right to decent work is a very important issue in northern countries, and in Alberta in particular.

The other articles in this magazine have illustrated that Alberta’s labour laws are far from the best in the country. Workers in Alberta can end up in jobs where the work is anything but decent — they might not know about the laws that do protect them, they might not have a union to help them.

The current crisis in the financial markets and the likely global recession that looms make people think about their own place in this globalized world and about their jobs and their futures. The call from the ITUC to (re)consider global solidarity comes at a crucial moment and serves as a rallying call for trade unionists and workers around the world to stand up for workers’ rights in the face of a globalized economic crisis.

When the General Secretary of the ITUC, Guy Ryder, spoke in Brussels, Belgium on the World Day for Decent Work, his words resonated with workers around the world:

“On this day, together, we raise our voices to deliver a single strong and united message. That decades of deregulation, of reward for corporate greed and excess, have brought the world to the brink of global recession. A fundamental transformation of globalization is needed. And the time for that change is now.”

The ITUC organized the World Day for Decent Work as a wake-up call for employers everywhere because in these uncertain times, it is crucial for workers to stand together and demand decent work opportunities for all, with full respect for human rights. As the ITUC highlighted, it is not just workers in developing countries who do not have access to decent work and wages. Working families around the world, in Europe, the United States, and Canada are “bearing the brunt of the financial, food and energy crises” we face today.

October 7, 2008 - World Day For Decent Work (www.wddw.org)

The call to mobilize is not just a call to support the rights of other workers — it is a call from the ITUC for workers’ solidarity. And the call from the International garnered unprecedented support from around the world, thanks in part to new media including internet tools, affiliates and organizations planned events on October 7th in major cities, small towns and remote locales. Over 350 distinct events are listed on the
World Day for Decent Work's website. Trade unionists planned events, conferences, education campaigns, etc. on the World Day for Decent Work's three themes: rights at work, solidarity, and a world campaign to end poverty and inequality.

The information available at www.wddw.org shows that the trade union movement is indeed a global force, one that can have an impact on working conditions around the world. It’s not possible to read through the whole site – there are simply too many examples of trade union events, campaigns, conferences, demonstrations, etc. organized under the banner of the first World Day for Decent Work. It is rather inspiring to see how active unions are in their own communities; examples of World Day for Decent Work events included: a massive march in Paris, France; a rally in Kyrgyzstan; a series of events and conferences organized by the TUC in the U.K.; and a huge campaign by the AFL-CIO to increase membership.

Linked to the World Day for Decent Work is the global Decent Work, Decent Life Campaign launched by the ITUC and the Global Union Federations. Under the umbrella of the campaign, trade unionists are advocating that decent work for women and gender equality be written into labour policies and agreements. The campaign also seeks gender equality in trade union structures, policies and activities, and a significant increase in the number of women trade union members and women in elected positions. Research on international comparisons of wages and the wage gap, along with more information about the campaign is available at: http://www.ituc-csi.org/spip.php?rubrique198&lang=en

The Canadian Labour Congress' Women's Economic Equality Campaign has linked some of its events to the World Day for Decent Work. This campaign, timed to target the federal election in mid-October 2008, points out that there shouldn’t be a wage gap any more. Thirty years after the wage gap between women and men started to narrow, progress has stalled.

In Canada, women now work in greater numbers in the labour force than ever before. Two-thirds of women with children under three years of age are working outside the home. Women have fewer children than a few decades ago and they only take, on average, six months for maternity leave. They work longer hours. Almost 50% of women aged 25 to 45 have post-secondary education.

All this should have translated into a narrower wage gap over the years. But it hasn’t (for more information about this campaign, including toolkits, teaching materials and research, go to http://canadianlabour.ca/en/womens_economic_equal).

Decent work is not simply an issue for workers and trade unionists in other countries. The ITUC's call for solidarity comes a crucial moment. There is a clear need to improve workers' access to their rights across the globe – even right here in Alberta. It's important for labour activists to know that they are not alone in their struggle, that other unions and organizations are fighting the same battles in other countries.

As of October 3, 2008, more than 350 events in over 100 countries had been planned by over 200 affiliates of the International Trade Union Congress and other organizations (see http://www.wddw.org/-Events- for a list of all events).

**Events**

**ALBERTA**: Calgary – Gapzilla Campus Bake Sale – CLC, on October 29, 2008 – CLC’s Women’s Economic Equality Campaign – one of many Gapzilla bake sales across the country.

**EUROPE**: In the European Union, the International Trade Union Congress, along with campaigners from Solidar (www.solidar.org) went to the European Parliament to recruit supporters from amongst the Members of the European Parliament.
The campaign saw 180 MEPs signed up to support the call for decent work across the world; that’s almost 25% of European parliamentarians.

The European Trade Union Congress (ETUC) is campaigning for pay raises and making clear demands on European decision-makers. The European trade union movement strongly urges the European Central Bank to end its repeated calls for wage moderation. It calls on governments and employers to stop thinking of wage moderation as the only adjustment variable.

Wages and purchasing power are one of the main concerns of European citizens. At present, wages and salaries in Europe are on a downward spiral. The share of wages in gross domestic product (GDP) is falling steadily while company profits continue to increase. The immediate results are a drop in purchasing power together with growing inequalities.

The main demands of this campaign are:
- a rise in real salaries to boost purchasing power;
- decent minimum wages to combat poverty;
- genuine equal pay between men and women;
- stronger collective bargaining, including at European level;
- fair wages for workers in the public sector;
- calls for wage moderation by the European Central Bank must be addressed to senior managers; and
- limits on top incomes. Source: www.etuc.org

For the World Day for Decent Work, the AFL-CIO put special emphasis on the multiple themes of the World Day for Decent Work, including organizing member-to-member walks and phone banks so union members could talk with other union members about the issues so critical to working families. The AFL-CIO organized activities in cities across the United States and planned for thousands of union members to turn out and reach tens of thousands of additional members.

AFL-CIO began to organize the largest mobilization in federation history during the elections this autumn.

As part of its efforts to enact the Employee Free Choice Act, the AFL-CIO initiated a Million-Member Mobilization to engage at least one million union members and allies in support of the freedom of workers to form unions and collectively bargain. To date, the AFL-CIO is three-quarters of the way toward that overall goal; they have recruited 750,000 people.

USA: In the United States of America, the AFL-CIO is mobilizing its affiliates to participate in the World Day for Decent Work on October 7, 2008. This autumn the focus of the labour movement in the U.S. is to “Turn Around America,” through a dedicated effort to elect Barack Obama as the next President of the United States.

The AFL-CIO is focusing its membership education on issues including the Employee Free Choice Act, Health Care for All and An Economy that Works for All. The AFL-CIO brought 30,000 members of America’s union movement together at more than 700 meetings to talk about the issues working families care about most. These meetings provided an issue frame through which leaders could engage rank and file members as the

**MORE ONLINE**

**DECENT WORK CHECK**
http://www.decentworkcheck.org/main
How decent is your job? This website lets workers from India, South Africa and the Netherlands compare their wages, employment standards, collective agreements, etc. against local and international labour laws.

The site tries to make the rather abstract international conventions and local legal texts tangible for workers. As the site says, “in the end you want to know what is what your rights on the job mean in practice, what you may claim and what protection you are entitled to in case something unexpectedly does go wrong.”

**YOUTUBE**
The ITUC is posting videos submitted by unions and labour activist on a special channel dedicated to World Day for Decent Work: http://www.youtube.com/user/ITUCCSI
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