

DEDICATION

To the Pictou miners and their families whose lives have been taken or tragically altered in the area's many mining disasters.

On the weekend that this volume of the U.N.B. L.J. went to press, regular radio programming in the Maritimes was frequently interrupted with news reports from Plymouth, N.S., near Stellarton, site of the Westray Coal Mine. In a methane explosion early on Saturday, May 9th, twenty-six miners were trapped underground. On Sunday, rescue workers recovered eleven bodies, and as I write, on Wednesday, May 13, volunteer rescue crews are separated from the work-site of the remaining fifteen by a solid wall of rock, coal and debris.

Westray, which went into production in late 1991, is the most recent attempt to mine the thick, gassy and very dangerous coal seams which twist and turn in fantastic convolutions, folds and faults deep beneath the surface in Pictou County. The mine is privately owned, by Curragh Resources Ltd, Toronto, but supported by millions of dollars in government loans and loan guarantees. The mine produces coal for the provincially-owned Nova Scotia Power Corporation, under a take-or-pay agreement which commits the corporation to purchase 700,000 tonnes of coal a year, and to pay for an additional 275,000 tonnes regardless of whether it is needed.

Smoke from coal-burning power plants is a major contributor to acid rain, yet requests for an environmental impact assessment hearing before the mine opened were brushed aside with glib assurances that Pictou coal was cleaner than coal from the federally-owned and state-supported Devco mines in Cape Breton, a direct competitor with Westray for the Power Corporation's business. The Westray mine is situated in the riding that gave Prime Minister Mulroney his first seat in Parliament. When work began on opening the mine, the riding was represented provincially by Conservative Don Cameron, now the Premier.

Persistent questions about safety conditions in the mine have also been brushed aside, even when raised in the provincial Legislature. The mine is not unionized; some unionists suggest that as part of its anti-unions efforts, the owners hired many workers who had limited coal mining experience. Despite the lack of alternative employment in the area, miners have quit because they believed that the mine was unsafe. Since the mine opened, there have been seven serious roof collapses, and repeated high methane readings.

There will undoubtedly be an inquiry into the Westray disaster. It will likely conclude, as have so many other Royal Commissions and Inquiries, that miners work in difficult conditions in the Pictou County coal field, producing, at great risk, coal of limited marketability. But to recognize the sacrifice made by the Westray miners and their families, the inquiry must also address regional underdevelopment that makes a community accept jobs at any price, and try to formulate strategies that put people ahead of profits or political advantage.

THE ACADIA COAL STRIKE, 1934: THINKING ABOUT LAW AND THE STATE

Margaret E. McCallum*

Pictou Towns are Tense As Mining Tie-Up Threatens (*Halifax Herald* 23 Feb 1934).

Troubled Mine Areas Quiet After Hectic Saturday (*Halifax Herald* 5 March 1934)

Pickets and Mounties In Skirmish at Acadia Pit (*Halifax Herald* 23 May 1934)

Nova Scotia Miner Tells Thrilling Details of Fight Against Mine Bosses, Cops and AFL Leaders (*Worker* 2 June 1934)

Mounties Are Injured in Outbreak: Miners Hurlled Into Pond By Huge Crowd at Pit's Mouth (*Halifax Herald* 1 Aug 1934)

Eleven Miners Face High Court in Nova Scotia RCMP Trap After Strike (*Worker* 29 Aug 1934)

In Nova Scotia labour history, the words law, state and the coal industry bring to mind such headlines. Coal miners have a reputation for solidarity and militancy, born of the frequent work stoppages in the industry. In the Nova Scotia coalfields, difficult labour relations were exacerbated by the occupational hazards and high production costs of unusually deep and gassy mines, some of them extending miles under the ocean floor. Indeed, the history of the Nova Scotia coalfields is marked by long and bitter strikes, often involving competing unions. As early as 1864, the Nova Scotia government passed laws to restrain union militancy and provided troops and police to enable the coal operators to hire strikebreakers and continue production. But the state also contributed directly to capital accumulation, through granting leases of mining rights, establishing protective tariffs for coal and coke, and offering transportation subsidies so that Maritime coal producers could find and keep markets in central Canada. Since the coal belonged to the provincial Crown, the state had the power to supervise mining operations to ensure that the mining methods adopted by the mine operators did not destroy the potential of this valuable resource. Labour-management conflict would interfere with continued operations, possibly endangering the mines and certainly stopping the royalty payments collected by the provincial treasury on the coal produced; therefore, in intervening in labour relations, the state was looking to its own

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proprietary and pecuniary interests¹.

Labour relations in the Nova Scotia coal industry, therefore, could not be left solely to the parties, with the government sending in troops or police only as a last resort when a dispute threatened public order. The use of force was an admission that the government had failed in its duty to see that the coal mines were operated effectively for the good of the whole province. In Nova Scotia, the government mediated disputes in the coal industry long before such practices were institutionalized at the federal level with the *Industrial Disputes Investigation Act*² (IDIA). This legislation, passed in 1907, required employees and employers in transportation, public utilities and mining to submit their disputes to a board for investigation and conciliation prior to a strike or lock-out. Almost twenty years earlier, the Nova Scotia government had passed the *Mines Arbitration Act, 1888*, providing for the government and the parties to appoint a five-person arbitration panel with the power to issue binding decisions in labour disputes between coal workers and operators. The *Mines Arbitration Act* did not become part of the practice of labour relations in the coal industry, but coal miners and the coal communities frequently turned to the government of the day for mediation services. When, in 1925, the Privy Council struck down the IDIA as an intrusion on provincial powers, Nova Scotia miners did not mourn its loss; experience had convinced them that for labour, the *Act* was a snare and a delusion. Instead, they returned to their older pattern of invoking the aid of politicians or of *ad hoc* commissions to force the coal companies to listen to their demands.³

¹"Duty Plain and Urgent" *Halifax Herald* (25 April 1934) 1A. The voluminous literature on the coal industry includes the classic and now contested article by C. Kerr & A. Siegal, "The Inter-Industry Propensity to Strike-An International Comparison" in A. Kornhauser & R. Dubin, eds., *Industrial Conflict* (New York: McGraw-Hill, 1954) at 189-95. For an alternative view, see M. Bulmer, "Sociological Models of the Mining Community" (1975) 23 *Sociological Review* 61-92. Federal studies include *Report*, Royal Commission of Coal, 1946, [hereinafter Carroll Commission]; *Report*, Royal Commission of Coal, 1960 [hereinafter Rand Commission]. On Nova Scotia in particular, see *Report*, Royal Commission on the Coal Mining Industry in Nova Scotia, 1925 [hereinafter Duncan Commission 1925]; Royal Commission into Conditions in Coal Mining in Nova Scotia, 1932 [hereinafter Duncan Commission 1932]; E. Forsey, *Economic and Social Aspects of the Nova Scotia Coal Industry: McGill University National Problems of Canada Series, #5* (Toronto: St. Martin's House, 1930); D. McGillivray, "Military Aid to the Civil Power: The Cape Breton Experience in the 1920's" (1974) 3 *Acadiensis*, 45-64; D. Frank, *The Cape Breton Coal Miners, 1917-1926*, (Ph.D., Dalhousie University, 1979) [unpublished]; "I. MacKay, Industry, Work and Community in Cumberland Coalfields, 1848-1927" (Ph.D., Dalhousie University, 1983) [unpublished]. For an overview of labour law in Nova Scotia, see K. Abbott, "The Coal Miners and the Law in Nova Scotia: From the 1864 Combination of Workmen Act to the 1947 *Trade Union Act*" in M. Earle, ed., *Workers and the State in Twentieth Century Nova Scotia* (Fredericton: Acadiensis Press for the Gorsebrook Research Institute, 1989).

²S.C. 1907, c. 20.

³M.E. McCallum, "The *Mines Arbitration Act, 1888*: Compulsory Arbitration in Context" in P. Girard and J. Phillips, eds., *Essays in the History of Canadian Law*, vol. 3 (Toronto: University of Toronto Press for the Osgoode Society, 1990) at 303-25. The 1925 Duncan Commission commented that the

The work stoppages at the Acadia Coal Company in 1934 provide a focus for examining in detail the relationships among law makers, law enforcers and law consumers in the Nova Scotia coalfields. Amy Bartholomew and Susan Boyd, in "Toward A Political Economy of Law," observe that despite law's centrality in contemporary capitalist societies, "a political economy of law remains relatively unelaborated and untheorized in Canada." While noting the existence of a body of work which examines "how particular structures and conflicts have influenced concrete areas of law as well as judicial and administrative decisions," they lament a general failure to grapple with "theoretical consideration of complex questions" such as the relationship between legal rights and class power, or the extent to which the political economy determines the form and content of law and legal institutions in liberal democratic states. Bartholomew and Boyd are particularly critical of work which views both law and the state instrumentally: "as the unmediated will of a cohesive capitalist class." Echoing E.P. Thompson, they insist that law must be recognized as an arena of class struggle, as well as struggle over issues of race and gender, and that law is ideological as well as instrumental. Finally, they demand that any discussion of Canadian law must take into account the specificity of the Canadian federal state and its resource-based economy, the cultural and ethnic diversity of its society, and the existence of competing legal systems and national identities within a single state. Nonetheless, the building blocks for such an imposing edifice must be accounts such as this one, which situate particular laws and legal decisions in the structures and conflicts of their time and place.⁴

The Acadia Coal Company, incorporated in 1865, was the principal coal mine operator in Pictou County, having taken over two of its competitors in a re-organization in 1886. As with most of the major coal companies in the province, ownership and control of Acadia was in the hands of out-of-province financiers. The Acadia Company was originally organized by Hugh Allen of Montreal, the Pacific Scandal Allen, and some New York backers; in 1919, it became a subsidiary of the Nova Scotia Steel and Coal Company (Scotia). In 1933, Acadia was forced into receivership when Scotia was unable to pay the interest on its debts. These debts included \$1,703,000 owed to Acadia, \$20,000 of which had been taken in cash on the day the receivership order was made. Scotia blamed its

frequent resort to conciliation boards and commissions "constituted, in our view, an abuse of conciliation machinery. Reliance upon outside persons and influence was developed to such an extent that both sides arranged themselves into two separate forces, and abandoned any attempt to see what was reasonable, in the contention of the other. Worse still, a policy of the kind within the industry was bound to lead to a game of tactics ... which would only result in a graver misunderstanding of each other." (Duncan Commission 1925, *supra*, note 1 at 21-22.).

⁴A. Bartholomew & S. Boyd, "Toward a Political Economy of Law" in W. Clement & G. Williams, eds., *The New Canadian Political Economy* (Kingston & Montreal: McGill-Queen's University Press, 1989) at 212-16. See also P. O'Malley, "Law Making in Canada: Capitalism and Legislation in a Democratic State" (1988) 3 *Canadian Journal of Law and Society* 53.

financial difficulties on the lingering effects of its unhappy association with the British Empire Steel Corporation (BESCO), a huge mining, shipping and manufacturing conglomerate which had collapsed into bankruptcy in 1928, eight years after it was created. Scotia and Acadia survived as subsidiaries of the Dominion Steel and Coal Corporation (DOSCO), established to take over all of the BESCO properties.⁵

Acadia operated three mines in 1934 – the Vale mine in Thorburn, and the Allan and Albion mines in Stellarton, two small communities close to New Glasgow, Pictou County, on the Northumberland Strait. Because of the irregularity of the coal seams, mining conditions in Pictou were among the worst on the continent. The mines were deep and full of methane gas, making explosions and fires a daily menace. The softness and friability of the coal and the thickness of the coal seams made it difficult and costly to keep mine passageways open. Getting the coal to the surface and keeping the mines clear of gas and water required about one and one-third mine employees for every miner cutting coal at the face. Wages at the Acadia mines in 1936 contributed 60 to 62.5 per cent of production costs. With these operating conditions, Acadia had little hope of displacing American coal in the central Canadian market. Consequently, its main response to its financial crisis was to cut costs by reducing wages and closing mines. Both tactics met with resistance from the coal miners and their communities where Acadia was the major employer and taxpayer, particularly as Acadia's relationship with Scotia provided ample evidence that the company was being bled white by irresponsible owners "from away." But the receivers for the Acadia company also faced opposition from the provincial government, which obtained much of its revenue in the 1930s from coal royalties and fees for mining licences.⁶ The judiciary, too, initially opposed any decisions, such as abandoning a mine, that would destroy an existing asset and reduce the value of Acadia shares.

To further complicate the situation, two different unions claimed the right to speak for the Acadia workers, the Amalgamated Mine Workers of Nova Scotia

⁵*Report*, Royal Commission on the Acadia Coal Company 1937-38 (Halifax, 1939) at 8-10 [hereinafter *Report on Acadia*]; J. Cameron, *The Pictonian Colliers* (Kentville, N.S.: Kentville Publishing, 1974) at 48-58, 295 [hereinafter *Cameron*]; D. Frank "The Cape Breton Coal Industry and the Rise and Fall of the British Empire Steel Corporation" (1977) 7 *Acadiensis* at 3-34; D. Schwartzman, *Mergers in the Nova Scotia Coalfields: A History of the Dominion Coal Company, 1893-1940* (Ph.D., University of California, 1953) at 262. On the earlier history of Scotia, see K. Inwood "Local Control, Resources and the Nova Scotia Steel and Coal Company" (1988) *Historical Papers* at 254-82.

⁶From 1925 to 1932, Acadia paid out \$334,700 in dividends to Scotia. As well, Acadia paid a substantial annual administration charge to DOSCO and its predecessor, BESCO. *Report on Acadia*, *supra*, note 4 at 8-10, 24, 39-48; Carroll Commission, *supra*, note 1 at 88-89. Although Nova Scotia suffered a steady decline in coal royalties beginning in 1929, from 1924 to 1934, average revenue per year from royalties and fees was over \$600,000. H.N. Soley, "Good Business for Nova Scotia" *Halifax Herald* (23 February 1934) 6.

(AMW) and the United Mine Workers of America (UMW). The union favoured by the company, and by the provincial government, was the UMW, an affiliate of the American Federation of Labour and its Canadian counterpart, the Trades and Labour Congress. In 1909-11, when the UMW first tried to obtain recognition as the union representing Nova Scotia miners, the coal companies and the provincial government joined in condemning this foreign threat to the satisfactory relationship established with the once-militant Provincial Workmen's Association (PWA). The local UMW was almost destroyed in recognition strikes in Cape Breton and Cumberland County, but, by 1917, it had sufficient strength that the federal government, in the interests of maintaining coal production for the war effort, arranged a merger between the two unions. By the end of the war, the UMW had emerged as the dominant party, and in 1919 won recognition in its own right from the principal coal companies.⁷

In the 1920s, the international executive of the UMW proved to the coal companies that it was worthy of their confidence by vetoing strikes while a collective agreement was in force, and discouraging participation in left-wing politics. The UMW's reputation with employers and the government was further enhanced by the comparison with a new rival, the One Big Union (OBU), a syndicalist union organized in western Canada in 1919 and associated in the public mind with the Winnipeg General Strike. By 1926, the OBU claimed several Nova Scotia locals, including one in each of the Acadia coal communities. In what appears in retrospect as a dress rehearsal for the events of 1934, the Acadia Coal Company supported the UMW against its rival by granting a closed shop and the check-off, whereby union dues were deducted by the employer from each miner's wages. The OBU challenged Acadia's position in a lawsuit, but without success; the following year, it conceded defeat and withdrew its paid organizer.⁸

With the OBU out of the way, left-wing dissidents in the UMW mounted their own challenge to the less militant local leadership favoured by the union's international executive. Their efforts met with little success until 1932, when the UMW lost considerable support through its refusal to finance a strike against wage cuts and mine closures. Frustrated and angry miners joined with left-wing organizers to establish a new union, which they called the Amalgamated Mine

⁷Carroll Commission, *supra*, note 5 at 288; P. MacEwan, *Miners and Steelworkers: Labour in Cape Breton* (Toronto: Samuel Stevens Hakkart, 1976) at 22-51. On the PWA, see I. McKay, "The Provincial Workman's Association: A Brief Survey of Several Problems of Interpretation" in W.J.C. Cherwinski & G.S. Kealey, eds., *Lectures in Canadian Labour and Working Class History* (St. John's: New Hogtown Press, 1985) at 127-34 and "By Wisdom, Wile or War: The Provincial Workmen's Association and the Struggle for Working Class Independence in Nova Scotia, 1879-87" (1986) 3 *Labour/Le Travail* at 13-62.

⁸D.J. Bercuson, *Fools and Wise Men: The Rise and Fall of the One Big Union* (Toronto: McGraw-Hill Ryerson, 1978) at 236, 238-45; E.J. Shields, *A History of Trade Unionism in Nova Scotia* (M.A., Dalhousie University, 1945) at 58-59, 62-64; Cameron, *supra*, note 4 at 153-154.

Workers of Nova Scotia. The name was chosen to evoke memories of the fighting spirit of the union created in 1917 with the merger of the PWA and the UMW. Many of the leaders of the AMW were Communists or Communist sympathizers, and in promoting the AMW, they were responding not only to events in Nova Scotia but also to policy directives from the Communist International (Comintern), the world-wide Communist organization established in 1919. Early in the 1920s, the Comintern had instructed Communist Party members to work within established unions, but in 1928, it abandoned its united front policy and practices in favour of creating its own organizations to compete directly with existing unions. The Canadian Communist Party (CP) accordingly formed the Workers' Unity League in 1930. The Communists in the AMW did not press for affiliation, however, out of respect for the desire for local control, and the anti-Communist sentiment in Nova Scotia, particularly among the large number of Scottish Catholic miners. When the AMW returned to the UMW in 1936, Comintern policy was also a factor in the decision. The previous year, the Comintern had announced its "United Front Against Fascism and War," and directed its members to join main-stream unions. But the decision to disband the AMW, like the decision to create it, was rooted in the realities of the Nova Scotia coal industry. The union's experience, particularly the Acadia strike of 1934, convinced its supporters that an independent union could not survive against the combined opposition of the UMW, the coal companies and the state.⁹

The 1934 Acadia strike actually began with a lock-out on 6 November 1933, to enforce a 20 per cent wage cut announced by the Receiver for the company. Earnings were already at or below basic subsistence, both because most miners were unable to obtain a full week of work, and in part because of the previous year's 20 per cent wage cut. When the men refused to accept a further reduction, the company closed its mines, retaining the services of the maintenance crews to avoid irreparable damage from accumulations of water or gas. The provincial government intervened with an offer to pay an outside expert to prepare a report on Acadia's situation, if the company would re-open the mines at the old wage scale. Since the government also promised to cover any resulting deficit, Acadia re-opened the mines on 26 December 1933.¹⁰ In mid-February 1934, the government released the promised report, written by Thomas Graham, a mining engineer from Victoria, B.C. Graham confirmed the view of the Receiver-Liquidator that the Acadia mines would have to close if costs could not be

⁹Shields, *supra*, note 7 at 69-80; MacEwan, *supra*, note 6 at 158-64, 169-76; M. Earle, "The Coal Miners and Their 'Red' Union: The Amalgamated Mine Workers of Nova Scotia, 1932-1936" (1988) 22 *Labour/Le Travail* at 99-137; I. Angus, *Canadian Bolsheviks: The Early Years of The Communist Party of Canada* (Toronto: Vanguard, 1981) at 276-9; I. Avakumovic, *The Communist Party of Canada, A History* (Toronto: McClelland & Stewart, 1975) at 68-76, 96-97, 131-32.

¹⁰Cameron, *supra*, note 4 at 156-57; *Nova Scotia Journals*, Part 1, Appendix 9, Annual Report on Mines 1934 (Halifax, 1935) at 56; Speech from the Throne, 1 March 1934.

reduced. He suggested three possible alternatives: operating all three mines with a wage reduction of 36 per cent for the lowest-paid workers; operating two mines with a wage reduction of 27 per cent; or operating one mine with a wage reduction of 16 per cent.¹¹ When the government refused to offer any further aid to Acadia, the company announced that it would reduce wages forthwith, and appealed through the press for the miners' co-operation, declaring that "[a]ny operation of the mines at this time would be, in fact, all for the benefit of the employees and produce nothing for the owners of the property." Nonetheless, both the UMW and the AMW vowed to strike in defence of the existing wage rate.¹²

With the available records, we can only speculate that the UMW's firm stand was due in part to the existence of the AMW, which had been declaring for some time that it would resist the wage cut. For its part, the AMW was in the position of having to match rhetoric with results. Since its creation in June 1932, the AMW had spread rapidly through the mining communities on Cape Breton. On the mainland, the new union was well supported in Stellarton, but won few members at Thorburn or at Springhill, in Cumberland County. In 1933, the AMW executive twice ignored strong membership calls for a district-wide strike, and, in the eyes of contemporary critics as well as its later chroniclers, "the AMW's militance had been tested and failed the test;" the union may have seen the Acadia situation as an opportunity to refurbish its image. Both unions, of course, may have been hoping that the provincial government would offer money to Acadia in order to avoid a strike.¹³ Whatever the mix of motives, mine operations ceased on 28 February 1934, with miners from both unions refusing to go underground for the night shift. On 1 March 1934, a UMW committee attended a meeting with the four local mayors, and D.H. MacDougall, who had been appointed one of the receivers for Acadia. MacDougall, a consulting engineer, had twenty years of experience working for the DOSCO companies. At the meeting, he practically guaranteed three days of work per week, and promised that, for the next year, there would be no deductions from miners' wages for arrears in rent or coal purchases. MacDougall also agreed to an independent audit of Acadia's operations after six months if the UMW executive demanded it.¹⁴ Despite uncertainty about whether striking miners would be able to receive municipal relief, both unions rejected these terms, and the strike continued. About 1200

¹¹"Government Refuses to Aid Acadian Collieries"; "Miners Reject Pay Cuts Recommended by Graham Report"; "Claim Wider Markets, New Machines Would Solve Problems in Pictou Area" *Halifax Herald* (22 February 1934) 1.

¹²"Will Cut Mine Wages Forthwith"; "Pictou Towns Are Tense as Mining Tie-Up Threatens" *Halifax Herald* (23 February 1934).

¹³Earle, *supra*, note 8 at 120, 122-25.

¹⁴"Walk Out Closes Acadia Mines" *Halifax Herald* (1 March 1934) 1; *Canadian Who's Who 1936-37*.

men were out of work; a maintenance crew of 150 remained at their posts.¹⁵ On 3 March 1934, fighting between supporters of the rival unions was narrowly avoided when some UMW executive members from Cape Breton did not resist an AMW escort to the train station after the UMW tried to exclude non-members from a mass meeting. When the UMW executive members returned the following week, more than 100 RCMP officers had been moved to the area to maintain order, and there were no further incidents during this strike.¹⁶

Terms for ending the strike were negotiated at meetings in Halifax attended by representatives of the company, the UMW, and the government, including the Minister of Mines, and on one occasion at least, the Premier. In effect, the men accepted the proposed wage cut, but maintained an appearance of victory by describing the cut as a \$100,000 “rebate” to Acadia, to be made up by each man working one-half shift without pay for the next year. This “rebate” was the miners’ contribution to the company’s \$280,000 deficit from 1933. Acadia would not guarantee five days’ work per week, the issue on which negotiations had broken down at a mediation session with the government in mid-April.¹⁷

After acceptance of the terms by the Receiver at the beginning of May, the UMW submitted the terms to its members in a referendum. About two-thirds of the Acadia workforce voted; the settlement was accepted, 496 to 243, and the mines re-opened on 14 May.¹⁸ From the beginning of the strike, the AMW leaders were excluded from the negotiating process, and they condemned the proposed settlement as a sell-out. The president, John Alex MacDonald, declared his union’s willingness to assume the leadership of a general strike, but, following announcement of the results of the referendum, the local membership of the AMW returned to work.¹⁹

¹⁵“Miners to Meet on Saturday” *Halifax Herald* (2 March 1934) 1, 4.

¹⁶“Crowd Escorts Leaders”; “Troubled Mine Areas Quiet After Hectic Saturday” *Halifax Herald* (5 March 1934) 1, 2; Cameron, *supra*, note 4 at 158.

¹⁷“New Mines Conference is Arranged”; “Executive Has No New Proposals” *Halifax Herald* (31 March 1934) 2, 5; “Conference is Set for Wednesday” *Halifax Herald* (2 April 1934) 3; “Delegates of Two Unions Meet Cabinet” *Halifax Herald* (5 April 1934) 4; “End of Acadia Impasse is Seen: Miners of Pictou County Return to Pits is Belief” *Halifax Herald* (16 April 1934) 1,4; “Will Work if Given Five Days Each Week?” *Halifax Herald* (25 April 1934) 1; “May it Be Settled and Settled Right” *Halifax Herald* (28 April 1934) 1; “Principle Acadia Miners’ Proposal is Accepted” *Halifax Herald* (30 April 1934) 1. Cameron, *supra*, note 4 at 159.

¹⁸“Acadian Men Vote To Accept Proposal To Return To Pits” *Halifax Herald* (9 May 1934) 1, 4; Nova Scotia Journals, *supra*, note 9 at 55-56.

¹⁹“A.M.W. Suggest U.M.W. Call Strike” *Halifax Herald* (30 April 1934) 3; “Men To Have Final Say in Settlement, U.M.W. Avows”; “Strike Motion is Heard by A.M.W. Meet” *Halifax Herald* (27 April 1934) 2; “Three Pits Will Open Monday” *Halifax Herald* (10 May 1934) 3.

A major reason for ending the strike was the fear of mine closures if it continued. Acadia estimated that it cost \$7,000 per week to keep the mines free of water and gas, an expense it could not justify unless the mines were producing coal. A month into the strike, therefore, the Acadia Receivers applied to the Supreme Court of Nova Scotia for permission to abandon two of its three mines, by removing mining equipment and withdrawing the maintenance crews. Relying for its evidence on the Graham Report, the Receivers argued that closing two mines would result in a gross operating profit from the remaining mine of 19.7 cents per ton, as compared to a loss of 17.1 cents per ton from operating two mines, and a loss of 36.5 cents per ton from operating all three mines. Six judges ruled on the application, which was unsuccessful. Two of them, Justices John Doull and R.H. Graham, were from Pictou County; both were former mayors of New Glasgow, and former MLAs for the County, Doull for the recently-defeated Conservatives and Graham for the Liberals. Indeed, Doull had been in Pictou and observed the send-off given the UMW leaders by the AMW in Stellarton on 3 March. The two Pictou County judges, along with Justices H. Mellish and W.F. Carroll, denied the Receiver's application, but invited them to apply again with better supporting evidence. Justice L. Hall, with Justice H. Ross concurring, would have granted the application. Three of the judges who denied the application referred to the fact that this matter came before them while the mines were idle due to a wage dispute; Graham also referred to the effect of mine closures on the local economy.²⁰ On 9 April, the Receiver submitted a new application for abandonment of one mine, Acadia # 3 (the Vale mine), in Thorburn, supported by affidavits and oral testimony. This application was approved.²¹ The local mine manager was ordered to let the mine flood on 23 April, but a delay was permitted when the UMW offered to re-open negotiations on the terms which the company finally accepted.²² At the conclusion of the strike, operations resumed at all three Acadia mines, although part of Acadia # 3 was abandoned the next year.²³

The provincial government, meanwhile, refused to subsidize higher wages or a guaranteed number of work shifts per week at Acadia, despite substantial government assistance to coal mines in Premier Angus L. Macdonald's own riding

²⁰Public Archives of Nova Scotia (PANS), MG 1 v. 263, *Diary of John Doull*, 1934; *Canadian Who Who's 1936-37*; "Pictou Mines See Threat to Industry Temporarily Lifted"; "Supreme Court Full Bench Refuses Immediate Permission to Close Collieries"; "Wave of Unrestrained Relief Sweeps Colliery Area at Full Bench Decision" *Halifax Herald* (29 March 1934) 1.

²¹"Thorburn Men Fearful"; "Full Bench Hears Revised Proposal to Close Colliery" *Halifax Herald* (9 April 1934) 1,4; "Will Re-enter Long Idle Pits" *Halifax Herald* (16 April 1934) 4; Public Archives of Nova Scotia (PANS), RG 39 c, v. 827, 1933 S.C. 4668, Order, 14 April 1934.

²²"Flooding of Vale Pit is Ordered" *Halifax Herald* (24 April 1934) 1,5.

²³"Flood Balks Mining" *Halifax Herald* (16 May 1935); "Deputy Minister's Report on Thorburn Mine Tabled But Government Action Dormant" [New Glasgow] *Evening News* (16 May 1935).

of Inverness, Cape Breton. Macdonald explained that “[i]f every time an employer was forced to cut wages an appeal was made to the Government ... it was only a matter of time before the province would be in a worse position than Newfoundland It is impossible for the Government at this time to begin to make up to the employees the difference between what they think is a reasonable rate and what the industry can pay.”²⁴ Towards the end of the negotiations, the government insisted that it had done enough in paying for the Graham Report and for maintaining the old wage rates until the Report was released. The government itself was one of Acadia’s largest creditors, for unpaid royalties, taxes, and workers’ compensation levies, with little prospect of payment. Nevertheless, the government did contribute to the final settlement with a \$100,000 “donation” from an unidentified source.²⁵

While the government was participating in the negotiating sessions, it was also proceeding with legislation to strengthen the UMW’s position. In 1927, as part of a general revision and consolidation of the provincial Coal Mines Regulation Act, union dues had been added to the items which an employer could lawfully deduct from a miners’ wages, if so requested in writing by the miner. The available evidence does not indicate any interest or concern about this particular amendment, even though it came in the wake of the OBU’s unsuccessful attempt to obtain the dues check-off from the Acadia Company. During the 1934 Acadia strike, the government restricted rights under this section to the union representing the majority of the miners. Instead of a secret ballot to determine which union had the support of the majority, the amendment provided for an annual count of dues deduction request cards, to be signed by the miners and submitted to the employer. The card count was supervised by the employer and union representatives, and in the absence of procedures for defining eligible voters, could include dues check-off cards signed by supervisory staff or others not eligible for union membership. The union with the most cards on each 15 November could then require the employer to check-off dues from each miner who supported that union. Winning the count, therefore, did not ensure that the company would recognize and bargain with the union having the support of the majority, only that that union could use the check-off to collect union dues from its supporters.

Former premier G.S. Harrington, now leader of the Conservative Opposition, was a lawyer who had on occasion represented the UMW, yet he strongly criticized the government’s bill. As Minister of Mines for the Conservatives, he

²⁴“The Acadia Collieries in Pictou County Have Now Been Closed Down 28 Days” *Halifax Herald* (20 March 1934) 1.

²⁵Report on Acadia, *supra*, note 4 at 21-22; Cameron, *supra*, note 4 at 58, 159, 295.

had piloted the 1927 *Coal Mines Regulation Act*²⁶ through the legislature. At the time, the UMW was regarded as the only union in the coal mines, and the government did not consider what rules should apply if two unions were competing for the checkoff. Nevertheless, Harrington argued that new legislation was unnecessary, because the coal companies were bound by their contracts with the UMW to check off dues for it exclusively. Harrington asserted that a unified trade union was essential to the coal industry in Nova Scotia, but he warned the government against using coercion to achieve unity, for "if there is one thing that labour is jealous of, it is the right to select its own union." The amendment would lead to charges that the union that won the count did so only "by the grace of the company [and] there was no quicker way to kill unionized labour... Once the charge was made that a union had secured its check-off in that way, the men would no longer continue their membership in it. They would then make common cause with the union which had lost" Harrington said that he had known the leaders of both unions for 25 years, but even with the prestige of the Premier's office, he had been unable to persuade them to talk about unification. He suggested that if the government wanted to help, it should sponsor a referendum by secret ballot on the issue of union representation. Harrington's arguments received support from two novice Liberal members from the coal mining areas, L.D. Currie (Cape Breton East), and D.F. Fraser (Pictou), as well as from Opposition members, but Minister of Mines Michael Dwyer responded that the coal companies had to know which union to negotiate with when existing contracts expired in November; the card-count method of determining that question met with the approval of the UMW, which had said that it would not participate in a referendum. The Premier also defended the bill, arguing that a referendum would amount to coercion but the card count did not, since 90 per cent of the workers already had submitted cards to the company requesting the check-off for one or the other of the competing unions. Besides, the company did not want a referendum. Despite opposition from the AMW, the bill passed third reading on 30 April. Its critics from among the Liberals voted with their party.²⁷

²⁶*Coal Mines Regulation Act*, S.N.S. 1927, c. 1, s. 97(1); S.N.S. 1934 c. 44. In contrast, the Rand formula, which is provided for in most modern collective bargaining statutes, gives the union representing the majority of the employees the right to demand the dues check-off from all employees, regardless whether they support the union, since all employees benefit from the collective agreement and the services provided by the union.

²⁷"Warns Bill Will Bring Mine Union's Downfall"; "Ministry's Ranks Uneasy, Premier Delays Legislation"; "Closer Study Urged By Ministry's Followers From Colliery Areas, Measure to Confine Check Off to One Union is Feared by Coercive Opposition Leader" *Halifax Herald* (25 April 1934) 1, 4; "Danger Is Seen in Bill"; "House Divides on Party Lines to Carry Union Dues Measure Through" *Halifax Herald* (28 April 1934) 1, 4. Earle, *supra*, note 8 at 128. The 1925 Duncan Commission, *supra*, note 1 at 46, had condemned the check-off, except for expenses directly related to work: tools, gunpowder, each miner's share of the wages of the checkweighman, and contributions for benefit societies and hospitals to which the company also contributed.

The UMW supported the amendment to the *Coal Mines Regulation Act*, but it did not sit back and wait for the card count in November. When the Acadia mines re-opened in May, after the strike, the UMW posted a notice at each pit-head declaring the Acadia Coal Company mines to be a closed shop, and threatening a walk-out unless all AMW men joined the UMW. At the time, the UMW estimated that it had about 800 members in the two Acadia mines at Stellarton, compared to 200 for the AMW. The Vale mine at Thorburn, which employed about 300, was estimated to be 100 per cent UMW. Vowing to stand firm and defend their rights under the *Coal Mines Regulation Act*, the majority of the AMW members refused to apply for membership in the UMW. The Acadia Company then stopped the lamps of non-UMW members, thereby averting the threatened UMW strike by locking out the AMW. One Acadia mine was able to continue operations with UMW men; the other two were shut down. With no possibility of obtaining municipal relief, a few AMW men went back to the UMW, but on 20 May the remaining AMW supporters organized a picket line outside the Acadia mines. Mounted Police were rushed in from neighbouring communities, and over the next three days, there were several skirmishes involving the police, picketing miners, their wives and daughters and UMW members. A police officer was hit in the head with a stone, and the local UMW President had to fire a revolver over people's heads to disperse a crowd that was throwing stones at his house. There were, however, no serious injuries and no charges laid. Operations resumed in all three mines when the UMW local rescinded its earlier decision to try and impose the closed shop.²⁸

Their success in ending the May lock-out was a welcome victory for AMW supporters in Pictou County, and they attempted to reinforce it in the courts. J.W. Porter, an AMW member, charged the Acadia Company with breaching the requirement in the *Coal Mines Regulation Act* that a company check off union dues on receipt of a written request to that effect from an employee. Acadia was honouring requests from UMW members for the check-off, but not from AMW members. In a hearing in magistrate's court, the lawyer for Acadia argued that the AMW was not entitled to the dues check-off because it was a political organization, not a bona fide miners' union; its constitution stated its purpose as, among other things, changing the economic system of the country. Late in July, the case was adjourned at the request of the lawyer for the AMW to permit each side to present written arguments. Ultimately, the magistrate decided in favour of the

²⁸“Notices Posted at Pits” *Halifax Herald* (18 May 1934) 1, 4; *Halifax Herald* (21 May 1934) 1, 4; “Miners March to Demand Relief” *Halifax Herald* (22 May 1934) 3; “Delegation Asks Council Intentions About Relief” *Halifax Herald* (23 May 1934) 3; “Pickets and Mounties in Skirmish at Acadia Pit” *Halifax Herald* (23 May 1934) 1; “Peace Follows Tumult at Stellerton Colliery” *Halifax Herald* (24 May 1934) 1,4; “UMW Rescinds Order for Mine Closed Shop” *Halifax Herald* (24 May 1934) 4; “Peace Prevails in Pictou,” “Union Men Will Work Together,” “Company to Accept AMW Cards When Pits Operate Today” *Halifax Herald* (25 May 1934) 3; Cameron, *supra*, note 4 at 159-160.

AMW, giving it the right to participate in the 15 November card count.²⁹

Meanwhile, there was another short but violent strike at the Albion and Allan mines in Stellarton. On 26 July 1934, a miner named William MacPherson complained to the manager of the Allan mine about the condition of his company-owned house, and was suspended for using abusive language. The afternoon shift walked out that day in protest, but the company refused to discuss the matter until the men returned to work. The strike spread to the Albion mine, although at both mines some men continued to work.³⁰ On 31 July, pent-up frustration over the wage cut and tension between the rival unions erupted into what a newspaper report described as "terror." A mob of angry men and women waited at the Allan mine for men coming off their shift, and kept them imprisoned in the wash house with a fusillade of stones until the police came to their rescue. The following day, a crowd of 300, including women and children, administered a "ceremonial christening" in the mine pond to 12 miners coming off the afternoon shift at the Albion mine. That evening, a company barn was burned. Stellarton was peaceful the next evening, perhaps because many of the strike supporters had travelled to Thorburn to address a public meeting, attended by about 100 people; the UMW loyalists in Thorburn gave a "definite and decided no" to the call for a sympathy strike. Inter-union conflict was not ostensibly the issue in the strike, but was identified as a factor by officials of the company and by the UMW. In his year-end report to the Supreme Court, one of the Acadia receivers attributed the strike to the dismissal of a worker for insolence, and "a feeling between the United Mine Workers and the Amalgamated Mine Workers as to the check-off system."³¹ The local UMW board member denounced the walk-out as being "due to agitators who were receiving their backing from other parts of the province."³²

On 3 August, at a meeting open only to working miners, the men voted unanimously to return to work, much to the relief of William MacPherson. The RCMP then laid charges of unlawful assembly against eleven men involved in the "christening" incident; four of them had not been called back to work after the strike ended in May, and one had not worked at Acadia for over two years. No women were charged, despite their active participation in the rowdiness. The Communist-sponsored Canadian Labour Defense League raised money to pay for a lawyer for the accused, and hired G.H. Vernon of Truro, who had represented

²⁹"Test Case of AMW Adjourned" *Halifax Herald* (1 August 1934) 3; Cameron, *supra*, note 4 at 162.

³⁰Cameron, *supra*, note 4 at 160-161; "Shaft Closed" *Halifax Herald* (28 July 1934) 1, 7; "Pictou County Mine Tie-up Continues" *Halifax Herald* (30 July 1934) 3; "Pictou County Mines Idle as Picketers Surround Pit" *Halifax Herald* (31 July 1934) 3; "Mounties Are Injured in Outbreak" *Halifax Herald* (1 August 1934) 1, 4; "Anxiety Grips Coal Fields" *Halifax Herald* (2 August 1934) 1, 4.

³¹Public Archives of Nova Scotia (PANS), RG 39 C v. 827, 1933 S.C. 4668, *Affidavit of F.H.M. Jones*, 11 Dec 1934; *Halifax Herald* (3 August 1934).

³²"Miners to Sit Today" *Halifax Herald* (3 August 1934) 1, 4.

the AMW in the attempt to force the Acadia Company to honour its members' check-off requests. The trials were held early in November; when the first three were convicted, the rest pleaded guilty. Sentences ranged from 2 to 5 months.³³

The final blow to the AMW was the card count. The results showed that Nova Scotia's 12,000 miners were fairly evenly divided between the AMW and UMW with the AMW having a slight lead. Rights to the check-off were determined on the overall totals for each company, however, rather than on a mine-by-mine basis. So, despite the AMW success in Glace Bay, the UMW won the right to the dues checkoff in all the DOSCO mines. The AMW won only in the Scotia mines in Cape Breton. In Pictou, the UMW received 641 cards, and the AMW 549. Amidst allegations of sharp practices and outright cheating, observers concluded that the card count, instead of resolving the dual union question, had only aggravated it. Although the AMW vowed to carry on by collecting its dues over the table – a practice which it had initially advocated as ensuring union democracy and rank-and-file control – it was unable to make any gains in the card count the following year. Early in 1936, after fruitless meetings between the leaders of the two unions, rank-and-file AMW miners initiated unification talks from which union officials were explicitly excluded. The talks were successful; the AMW was dissolved and its members admitted to the UMW without initiation fees and with full rights. Many AMW leaders subsequently were elected to local executive positions in the UMW. The UMW's dominance in Nova Scotia was not challenged again until 1985, when a union affiliated with the nationalist Council of Canadian Unions lost a representation vote.³⁴

Despite the obvious defects of the procedure for establishing the right to the dues check-off, coal mine employees who were covered by the 1934 legislation were excluded from the more elaborate dues check-off provisions contained in the *Trade Union Act* which Nova Scotia passed in 1937. The first Canadian jurisdiction to introduce legislation loosely modelled on the compulsory collective bargaining provisions of the American *Wagner Act*, passed in 1935, Nova Scotia proceeded cautiously; the exclusion of coal mine employees from the dues check-off section was probably to their advantage. The Act provided that employers who refused to recognize and bargain collectively with the trade union supported by the majority of their employees were liable to a fine of \$100 or imprisonment for thirty days in default of payment. Enforcement was left up to the labour movement. The legislation did not provide for a secret ballot to determine which union had the majority support of the employees. In any industry in which

³³"Men to Return To Pits" *Halifax Herald* (4 August 1934) 1; "Miners Are Sentenced At Pictou" *Halifax Herald* (2 November 1934) 3; "Eleven Miners Face High Court in Nova Scotia R.C.M.P. Trap After Strike" *The Worker* (29 August 1934); Cameron, *supra*, note 4 at 161.

³⁴Earle, *supra*, note 8 at 128, 131, 135, 136; "UMW Gains Control of Mine Labor in Six Companies" *Halifax Herald* (17 November 1934) 1,4.

employers already made deductions from their employees' wages by statute or by arrangement between employer and employees, the legislation required employers to include deductions for union dues at the request in writing of the individual employee, if such deductions had been approved by a majority of the employees in a vote by ballot conducted by the Minister of Labour. For unions which had been able to negotiate a dues check-off, this cumbersome procedure was a step backward, especially as it required individual union supporters to identify themselves to management.³⁵

In contract negotiations in 1935, Acadia miners received a five per cent wage increase, but rates remained substantially below those paid at the other DOSCO mines. Another strike at Acadia in 1937 ended when the government promised to appoint yet another Royal Commission, chaired by Justice W.F. Carroll. Like its predecessors, it concluded that the Acadia Company was not in a financial position to pay higher wages. Acadia's parent company, Nova Scotia Steel and Coal, was discharged from receivership in 1938, and operated as a holding company thereafter. Acadia continued operating at least one mine in the New Glasgow area until 1968, and surrendered its charter of incorporation the following year. Some of Acadia's operations were taken over by the Pictou County Research and Development Commission (Picord), but even government subsidies did not enable the company to find markets for its coal, and the last of the Acadia mines was closed in 1972.³⁶

What does this small snippet of the history of the Nova Scotia coal fields tell us about law and the state? First, it reminds us that neither the state nor law are monolithic; different agencies within the state, including different legal institutions, play different and sometimes contradictory roles. The net effect, however, was to strengthen the power of the Acadia Coal Company and the union with which it was prepared to negotiate, and to reduce the viability of a more militant or radical alternative. Acting through the Legislature, the state regulated union entitlement to the check-off, a right that was recognized by the miners and the government as being essential to a union's survival.³⁷ Using the persuasive power of the Executive – the Minister of Mines, the Premier and at times the whole Cabinet – bolstered by reports of outside experts, the state pressured the miners to accept the company's terms, and privately offered to spend taxpayers' money to help the UMW save face. The government hoped, in keeping its offer quiet, to preserve its image as a neutral mediator, helping to resolve what was characterized as a dispute merely over wages. The image of the state as neutral mediator was

³⁵*Trade Union Act*, S.N.S. 1937, c.6.

³⁶Report on Acadia, *supra*, note 4 at 18-20; *Monetary Times* (19 March 1978) 301-04; (23 July 1938) 104; Cameron, *supra*, note 4 at 59-161.

³⁷"Warns bill will Bring Mine Claims Downfall" *Halifax Herald*, *supra*, note 26. (25 April 1934).

tarnished when the police rushed into the New Glasgow area at the first hint of trouble. But the government could distance itself from the police. Indeed, the trials of the men charged with unlawful assembly helped to restore the image of the neutral state; in the trial process, collective acts of protest against the arbitrary power of the company were reconstructed into random acts of violence against other miners. The state, in convicting the trouble-makers, was acting to protect every individual's interest in personal security. The image of the neutral state was enhanced, too, by the Supreme Court judges who delayed implementation of the Receiver's plan to close down one of the Acadia mines, as well as by the magistrate who agreed with the contention of the AMW that under the 1927 *Coal Mines Regulation Act*, Acadia was obliged to check off union dues for the AMW at the written request of an employee. Both these decisions, at least in the very short-term, went against the express wishes of the Receiver for the Acadia Company, and limited some of his freedom to deal with the company's property and employees as he saw fit.

Nonetheless, ultimately law supported the status quo. The check-off legislation was passed despite the opposition of the AMW, and police and courts were used to limit picketing and protests. Law emerged as force clothed with legitimacy because it was backed by the authority of the state: as such it was deployed to suppress labour unrest and ensure continued coal production. Such an instrumentalist understanding of law, however, ignores both the relative autonomy of the state from the immediate direction of the capitalist class, and the relative autonomy of law and legal institutions within the liberal democratic state. In deciding how to respond to the strike at Acadia, the Nova Scotia government had to consider a great deal more than the needs of the capitalists who were in danger of losing their investment in the Acadia Coal Company. The government was concerned that commitments made to settle the Acadia strike or to prevent the company from closing any of its mines would evoke demands for equivalent treatment from other mining areas. And given Acadia's relationship to DOSCO, the government could not be sure that the company would not be wound up anyway, once its assets had been stripped to support other companies in the conglomerate. But if the strike continued, or mines were closed, the provincial treasury could never recover the money owed it by Acadia, and the municipalities around the mines would be so devastated that the province would have to step in with money for relief payments and industrial re-development. The judiciary, too, imbued with its own professional ethic as well as a keen understanding of the political economy of the coalfields, based its decision on more than the immediate needs of the Receiver. The judicial decisions on the mine closing and the check-off show that law can be used by the less powerful to impose some limits, if only briefly, on the power arrayed against them. Of course, these victories, tenuous as they are, serve as well to reinforce faith in the liberal ideal of equality before the law.

The events surrounding the Acadia strike of 1934 reveal the limitations of instrumentalism as a way of understanding how law works in a capitalist society. They reveal, as well, the limitations of the economists' model of the free market, in which supply and demand determine price, and profitability determines the level of investment. Markets operate within the framework created by law. At the most basic level, buying and selling are possible only because the state uses law to define and protect the rights of property owners. But in the Nova Scotia coal industry, the state did much more—defining the terms of coal leases, providing cash grants to coal mine operators, distributing purchasing orders for coal for the state-owned Canadian National Railways on the basis of political considerations, enacting regulations for the safe working of the mines and supplying inspectors to see that the regulations were followed, intervening in labour disputes as mediators and keepers of the peace, and, while maintaining the appearance of neutrality on the issue of union representation, intervening decisively with legislation which gave an advantage to the UMW, once it had proved that it would co-operate with management and the state in containing left-wing radicalism or labour militance.³⁸

One would be foolhardy to advance a new paradigm for the law/state/economy relationship on the basis of a single case study, but the empirical evidence does point to the need to elaborate a carefully nuanced theory of this relationship. Such a theory must begin with the recognition that, although the state uses law to promote capital accumulation and to create and maintain social harmony, it does so within the structural constraints of a capitalist society and the ideological limits imposed by notions of fundamental legal rights. By threatening to strike and move its investment elsewhere, capital can exert considerable pressure on the state to provide it with the legal regime which is most conducive to capital accumulation. But in a liberal democratic state, law is never simply the expression of the interests of the dominant class. Intra-class friction and division is too prevalent for the state to be able to reconcile all the conflicting demands of financiers, entrepreneurs, managers, importers, exporters, shippers, carriers, resource extractors, manufacturers and the myriad other economic sectors which make up the modern capitalist class. Nor is the state itself monolithic, and able to speak with one voice, even if it had the information and analytic ability to determine what the message should be. Furthermore, if the state is to maintain its legitimacy, it must ensure that its laws and its actions conform to the rule of law. It must appear to be neutral and impartial, and to be bound by its own rules. The rule of law, however, involves more than appearances. In some conjunctures, members of the subordinate class are able to employ the rule of law, with its

³⁸On the CNR purchasing orders, see "60,000 Tons of Coal Will Be Forwarded" *Halifax Herald* (19 May 1934) 1; "East Pictou Conservatives Re-elect Dr. W.A. MacLeod" *Halifax Herald* (5 June 1934) 3. On the beginning of state regulation of mining operations, see D. McLeod, "Miners, Mining Men and Mining Reform: Changing the Technology of Nova Scotian Gold Mines and Collieries, 1858-1910", (Ph.D., University of Toronto, 1981) and "Colliers, Colliery Safety and Workplace Control: The Nova Scotian Experience, 1873-1910" (1983) Historical Papers 226-253.

promise of juridical equality to all, to limit the prerogatives of power.³⁹ Yet juridical equality can often hide substantive inequality. To quote again the familiar words of Anatole France, “The law in its majestic equality forbids both the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.” In the end, although Acadia and the union representatives both had access to the courts, Acadia’s perspective dominated; arguments based on a moral economy did not withstand the company’s legal and financial resources and its control over information about costs of production and profits. By framing disputes in the language of contract and property rights, law obscures fundamental questions about differential access to resources of all kinds, including influence on decision-making.

In the Pictou County coal mines in 1934, Acadia needed state assistance to survive, but the state also needed Acadia, and so had to provide it with the legal support it requested. Of course, the state had to ensure that the legal regime had some legitimacy in the eyes of the workers; the frequent resort to commissions of inquiry was one way to persuade striking workers that company decisions upheld by the government were based on sound economic grounds. If doubts remained, consent could be coerced. The need to earn money for basic subsistence was a very powerful incentive to return to work on the company’s terms; the presence in the community of a large body of police served to remind the striking miners that they had no property rights in their jobs – on the contrary, the law would protect the right of the company to hire others in their place. Although on some occasions workers were able to invoke the law in their behalf, law, like the state, operated from within a capitalist structure in which power and property rights were not equally available to all.

³⁹For a critique of this argument, see M. J. Horwitz, “The Rule of Law: An Unqualified Human Good?” (1977) 86 *Yale Law Journal* 561, reviewing D. Hay *et al.*, *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England* (New York: Pantheon Books, 1975) and E.P. Thompson, *Whigs and Hunters: The Origin of the Black Act* (New York: Pantheon Books, 1975).