

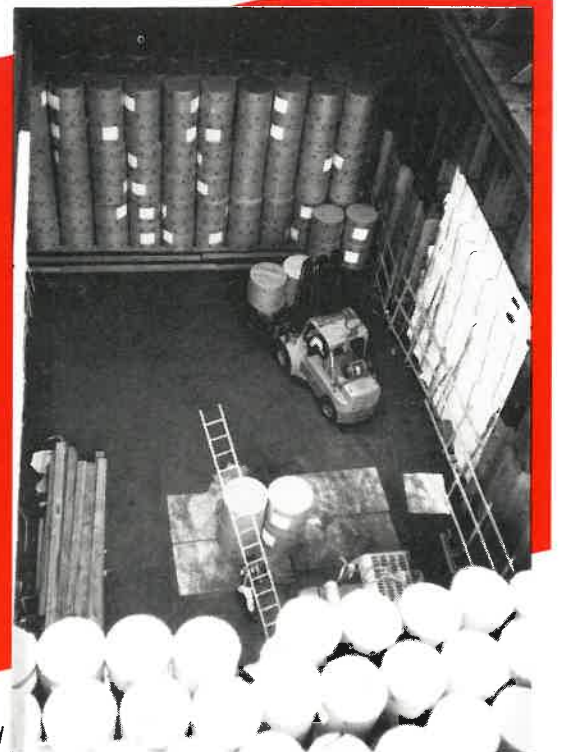


DEEP SEA SHIP WORK

These commonplace sights in longshoring are often unknown to our families and the general public.

Inspecting the gear

In the hold



We'll take it to the highest court!

This action arose out of back-to-work legislation enacted by the federal government in 1986. The Maintenance of Ports Operations Act (MOPOA) ordered all longshoremen to return to work immediately or face substantial fines. It also modified the terms of the previous collective agreement as recommended by the mediator, Dalton Larsen, and ordered the container clause issue be dealt with separately.

The ILWU decided to challenge the constitutional validity of this act on the basis of section 2(d) of the Canadian Charter which protects the freedom of association of individuals and section 7 of the Charter, which protects the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

The Trial Judgement

The trial took 10 days and a great deal of evidence was presented with respect to the economic impact of a port work stoppage. Mr. Justice Rouleau made the following findings after the trial:

1. MOPOA as a whole does not breach either section 2(d) or section

The following is a summary of the judgement of the federal court of appeal, handed down on September 24. The ILWU Canadian Area Board has decided to take this case on to the Supreme Court of Canada.

fence and imprisonment as a possibility for non-payment of fines under the criminal code;

3. section 13 of the MOPOA is not saved by section 1 of the Charter as evidence was insufficient to justify that the section was necessary in a free and democratic society.

The Appeal & Cross Appeal

Neither party was entirely happy with this decision. The ILWU appealed the following findings:

1. The trial judge's finding that the Act as a whole was not in breach of section 7 or 2(d) of the Charter; and

2. The decision to sever section 13 from MOPOA so that the remainder of the Act remained valid. The ILWU argued that section 13 was so bound-up in the rest of the Act that the whole Act should have been declared invalid.

The crown appealed the decision that section 13 was in breach of section 7 of the charter, the decision that section 1 did not save section

September 16, 17 and 18, 1992.

With respect to the issue that the MOPOA was in breach of section 2(d) of the Charter, the Federal Court of Appeal held that it was bound by reasons for judgement in four cases in the Supreme Court of Canada which all say that section 2(d) does not protect the right to strike.

Their rationale for this conclusion is the potential effect this would have on the future development of labour relations and, the future development of the right to strike. The judgement referred to the section 1 evidence in this context to point out how difficult it is for courts to assess competing interests in a labour dispute and to bolster their conclusion that this is a matter that is best left to parliament.

Individual rights

The ILWU had argued that an important difference between this case and those previously decided

rights of unions, rather than the members. The Federal Court of Appeal offered no comment on the difference between the two cases.

With respect to the issue that the MOPOA breached section 7 of the Charter, the judgement notes that the trial judge analyzed the issue in terms of the right to strike. Section 7 of the Charter protects the individual right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

The ILWU argued that what is involved here is not the collective right to strike but rather the individual right not to be forced or compelled to work on terms and conditions of employment that the individual has not agreed to.

The judgement then goes on to conclude that the purpose of the MOPOA is to end an ongoing lock-out, to extend the duration of the most recent collective agreement, to ensure that employees who were not working as a result of the lock-out would return to work and prevent future lockouts or strikes.

The purpose of the legislation, then, was not to compel forced la-

Mulroney Sells out Canadian Transportation System

Last year ILWU members joined with five other transportation unions to stop the export of Canadian barley through American ports. Although our efforts were not successful in stopping the barley we were able to bring the issue to the attention of the public and it is generally accepted that further plans to export grain through the U.S. were curtailed by our efforts.

But the Tories are not ones to be stopped in completing their agenda to sell this country to the highest bidder. This fall the CLC, the B.C. Federation of Labour and the Washington State Council of Labour rallied at the Peace Arch Park to fight the greatest threat to Canadian and American workers this generation has seen: the N.A.F.T.A. deal!

Twelve hundred trade unionists came out to stand in the rain with Jesse Jackson to send a message to both Bush and Mulroney: get rid of the N.A.F.T.A. deal or we will get

rid of you. The Americans did their part, now it's our turn.

As members of a transportation union, we must realize that if a country is to be in control of its destiny, it must control its transportation systems. Canada had that control with the building of the CN and CP railroads. Also, there has been a commitment by Canadian companies to ship bulk products such as potash, sulphur, lumber and grain by way of the Canadian transportation system.

Companies whose only commitment to this country is the all-mighty dollar are now looking at shipping Canadian products by way of a U.S.-Mexican route. If signed, the N.A.F.T.A. deal will allow Canadian carriers to operate private terminals in Mexican ports.

One of the fastest export routes for bulk cargoes is to be shipped down the Mississippi to the Mexican Gulf and then re-loaded on ships in Mexican ports. Also, CP and CN have bought extensive rail networks on the American side of the border



Gordie Westrand
Canadian Area President

to connect with Mexican transportation systems. This year, CN, Burlington Northern and the Mexican State Railway signed an agreement to foster a seamless transportation network.

As workers and Canadians, we can no longer stand by and allow our politicians to export our jobs and our children's futures out of this country. We can no longer watch others do the fight-

ing. All of us must get out and fight against the N.A.F.T.A. deal.

Remember, the final solution will be "voting Mulroney out of office", but the first step is to join the campaign to force the Tories to the polls.

Deltaport Container Terminal

Based on the conclusions and recommendations of an Independent Project Review Panel, the Vancouver Port Corp. has announced that a container terminal at Roberts Bank will be developed.

The Port Corp. has set a goal to have the project completed by 1995 with the overall container capacity in Vancouver increased from 500,000 TEU's to over 1,000,000 TEU's.

All indications are that the dock operators will be members of the B.C.M.E.A. and there would be an opportunity to see new customers who would normally ship their containers through Seattle or Tacoma, Washington.



Local 500 members Al Lemonnier, Steve Bushell and Wayne Sargent are flanked by their Washington State hosts Michael Forbes of Local 51, left, and Bob Rogers of Local 19, right.

Eighteen Longshore children awarded college and university scholarships

The following children of members have been awarded the ILWU Harry Bridges Entrance Scholarship worth \$1,500: Catherine Pelzer, daughter of Local 500 member Mike Pelzer; Maciej Palacz, daughter of Local 518 member Jack Palacz; Paul Moretto, son of Local 500 member Silvo Moretto; and June Disher, daughter of Local 514 member Tom Disher.

The three undergraduate scholarships of \$1,500 went to: Shelly and Sandy Gornall, daughters of Local 517 member Joy Gornall; and Elizabeth Hughes, daughter of Local 514 member Keith Hughes.

The ILWU Thomas P. Mayes Scholarship of \$1500 went to Tammy Olver, daughter of Local 514 member George Olver.

The ILWU Local 506 Ralph Scruton Memorial Scholarship of \$750 went to Teresa Kallenberger, daughter of Local 514 member Jim Kallenberger.

The two William L. Hurford Scholarships went to Dale Tiessen, son of Local 502 member Stewart Tiessen, who was awarded \$4,000; and Kevin Eichhorst, son of Local 502 member Dietrich Eichhorst, who received \$2,000.

The following students were awarded the 1992 ILWU Vocational/Career Technical Scholarships of \$850: Shelly Filippone, daughter of Local 500 member

Christina Klement, daughter of Local 505 member John Klement, studying mechanical drafting at B.C.I.T.; Antoinette Ferrari, daughter of Local 500 member Elio Ferrari, studying jewellery art and design at V.C.C.; Erik Molnar, son of Local 503 member John Molnar, studying accounting at B.C.I.T.; and Daniel Sargent, son of Local 500 member Wayne Sargent, studying culinary arts at V.C.C.

The 1992 Edwin K. Schuss Achievement Award of \$1,000 was presented to Scott Grover who is currently enrolled in the second year of the CAD/CAM Technology program at B.C.I.T.

Congratulations and the best of luck to each of you.

Sigurdson teaches longshore Leadership

The ILWU Leadership Training Course at the C.L.C. Winter School at Harrison Hot Springs will be held January 24 to 29, 1993.

Now in its third year, this course is instructed by Local 514 president Doug Sigurdson. It's designed to deal with the requirements and qualities of effective leadership for ILWU members.

Current issues affecting the labour movement and those specific to the ILWU will be part of the

Local 500 members go south to talk safety

Local 500 members attended the Governor's Conference on Health and Safety, Longshore Division November 12 and 13 in Tumwater, Washington.

The conference was presented with an impressive array of speakers covering the state safety program, how penalties are assessed for violations, drug problems, communicable diseases including hepatitis, AIDS and tuberculosis, and inspection of containers and

slings defects.

As well, Eric Skowronek, safety officer of the B.C.M.E.A., gave an overview of the B.C.M.E.A. and some facts on the Port of Vancouver.

Author Ron Magden gave an interesting history of the Washington longshore industry, and a marine survey consultant gave a history of classification societies and how they work.

The Safety Award was presented to a longshoreman who saved four men from possible death by run-

Elections Completed in ILWU Locals

Local 500, Vancouver

President, Tom Dufresne
Vice-President, Bill Carrigan
Secretary Treasurer, Jim McKinley
Business Agents, Lee Jantzen, Frank Neilsen, Jim Keith

Local 502, New Westminster

President, Brian Ringrose
Vice-President, Chris MacDonald
Secretary Treasurer, Wilf Belanger
Business Agents, Keith Grewall, Rob Sellers

Dispatcher, Dave Powell

Local 503, Port Alberni

President, Larry Mannix

Vice-President, George Kootnekoff

Second Vice-President, John Margiottiello

Secretary Treasurer/Dispatcher,
Howard Old

Second Dispatcher, Clare Nordmann
Local 504

President, Cliff Rabey
Secretary Treasurer/Dispatcher,
Bernie Talbot

Local 505, Prince Rupert

President, Wally Robinson
Vice-President, Dan Beaton
Business Agent, Laurie Corbett

Secretary Treasurer/Dispatcher, Ken MacLean

Local 508, Chemainus

President, Al Russell
First Vice-President, Brian Dishkin
Second Vice-President, Mike O'Shea
Local 514 Foremen

President, Doug Sigurdson
First Vice-President, Bob Pickering
Second Vice-President, Bill Beck
Third Vice-President, Stu Instance
Secretary Treasurer, Howie Smith
Local 517

President, Mike Gorman

Vice-President, Victor Johnson
Second Vice-President, Betty Perverzov

Financial Secretary, Brenda Woods
Local 518, Testers & Surveyors

President, Barry Holloway
Vice-President, Marion Chorney
Secretary Treasurer, Dave Cochrane
Local 519, Stewart

President, Len Watson
Dispatcher, Richard Lemieux
Local 520, Pilotage

President, Peter King
First Vice-President, Laura Johnson
Second Vice-President, Gary Tupper

ESSAY

This essay was written by a rank and file member who took the ILWU leadership course at the Canadian Labour Congress Winter School. Essays by other members at the course will be in future issues of *Waterfront News*.

A lot of change in a short time

I appreciate the opportunity to share some of the changes I have seen on the waterfront in the time I have been longshoring.

I remember the sack-humping days of the seventies. If I had left the school system two years earlier I might have found some hand stowed lumber and pulp. Central dispatch longshore hall, 18 dockmen, flour and on your way, PCT, railcars rattling down the track for an unknown task.

Four men to load 2400 sacks did not seem like a lot at the 8 a.m. start, but they took their toll by 2:30 that afternoon. Making your way to the tub to soak and waking up when the water was frigid and your hands could no longer make a fist.

Back to the hall the following day for another go. Dispatched with a gang as a holdman for the vessel Larry L. It was a picnic from the day before and the decision was made to be a lifer. Standing gear, tents, spreaders, preventers all come to

mind down memory lane, not to mention 25-cent beer. Fair weather was a relief, as it was to hear the thundering crash of hatch covers being opened from your seat at the Windsor Hotel.

Double whammies and two workers lost per gang. What a shame. They're gone for good. Our industry gets heavier lifting apparatus, the winch driver is long gone. In a short period of time 13-man gangs reduced to 8.

On the vessels of the nineties you see 35-ton lifts of pulp using two holdmen — one a U.T. — with automatic head release. Two slings and three spares -- seven men doing the work, out-producing the old system ten-fold.

In the passage of time there are fewer men, more machines and greater production. So, brothers: protect what you have now, and justify your jobs.

Kevin Babiuk, Local 502

Andy Kotowich dies at 69

The Longshore Union lost a long-time friend and member with the sudden passing of Andy Kotowich on October 16, 1992. Andy was 69.

Andy's career on the waterfront spanned a period of more than 40 years starting in 1951 when he began longshoring in Local 502, New Westminster. Working conditions during the time were often extremely hard and dangerous, with little or no benefits and a minimum of two hours pay when dispatched.

These conditions caused Andy to become involved in union affairs with the view to improving the longshoreman's working life. His long and varied career on the waterfront included;

1965 - Business agent for Local 502
1966 - Third vice-president of the Canadian Area

1967 - Business agent for the newly-founded Local 514

1968 - President of the ILWU Canadian Area

1971 - Started his own stevedore company - "Delta Stevedoring"

1973-84 - Foreman for Annacis Ma-



Andy Kotowich at the Local 502 pensioners banquet earlier this year with Kent Birmingham.

rine Terminals
1985-92 - ILWU/BCMEA collective agreement arbitrator

An avid fisherman, Andy had just returned from a week of trout fishing in the interior prior to his passing.

He is survived by his wife Christine, three children, eight grandchildren and two great-grandchildren.

Foremen's Local Strike Ends Quickly

After 10 months of bargaining, the members of Local 514 found they had little choice but to take strike action against the member-companies of the waterfront employers associations to achieve a collective agreement.

Following a breakdown in talks regarding a short funding pension issue, picket lines went up in all ILWU ports in B.C. at 5pm on September 22.

The longshoremen had signed a one-year agreement with increases to pension contributions. It expires on December 31, 1992 and the foremen intended to look at a similar agreement.

The union also recognized that the foremen's plan funding had fallen behind the longshore plan funding amortization periods. It was suggested by the union that the issue be addressed over a five-year period where the cost impact would

maintain the same amortization schedule as the longshore plan.

This proposal was ratified and work resumed at 1 am, September 25, with work stoppage kept to a minimum.

Since the union had suggested plan guarantees long before the dispute ended in a work stoppage, this was an ironic situation. Local president Doug Sigurdson, at the contract ratification meeting, commented that "the issue is one of internal employer politics rather than one of pensions."

Season's
Greetings
from your

AT THE TABLE

Longshore Negotiations

The Longshore caucus met Sept. 21-23, 1992 at the Maritime Labour Centre in Vancouver. The 44-member caucus debated resolutions from the membership in the process of formulating the current collective agreement.

Direct negotiations with the employer began with the exchange of demands on October 10 and continues to date. The union demands include an increase in wages and benefits, improvements to the S.U.B. plan, manning definitions, and changes in the definitions of maintenance and checking.

The employer demands include a tiered wage structure, a separate bulk agreement with three eight-hour shifts, changes in gang sizes

hopeful that this will be achieved.

Westshore Negotiations

Negotiations between the 23 members of Local 517 employed as office workers and janitors, and Westshore Terminals broke off on November 12. The employer insists on laying off the three janitors and contracting out this work. The employer has applied to the Minister of Labour for conciliation.

Local 502 has experienced numerous problems at Westshore in the past six months because of the mine closures in south-east B.C. The Local has made accommodations to ensure that there be no lay-offs until the end of 1992, but this has been difficult because of management's view of labour relations.

The Local is monitoring the

COURT CHALLENGE

from front page

in accordance with the terms of the collective agreement.

What the MOPOA did was prevent employees from resorting to a collective right-to-strike. The court described the ILWU argument as attractive but not enough to adopt because it attempted to use section 7 to achieve what the Supreme Court of Canada maintained could not be done under section 2(d) of the Charter.

The judgement goes on to note that section 7 is intended to protect interests within the "domain of the judiciary", as the judiciary is the guardian of the justice system. The judgement states that the right to strike and the right of Parliament to curtail the right to strike are matters that are not traditionally within the domain of the judiciary and should not become so.

With respect to section 13 of the MOPOA, the trial judge had concluded that it created an absolute liability offence. (An absolute liability offence is one where there is no defence.) If this is the case then all the Crown would have to prove in a prosecution that an individual did not appear at work on a specific day after receiving notice to return.

The fact that the longshoreman had been in a serious car accident on the way to work and was in the hospital, or the fact that the longshoreman had pneumonia and could not work, or even the fact that the longshoreman's wife was having a baby and could not work would be a defence if it is an absolute liability offence. If the offence were a strict liability offence, then those sorts of defences could be available to a longshoreman charged under the MOPOA. The trial judge concluded that it was an absolute liability offence because it did not provide for any defences within the confines of the section.

The appeal judgement concludes that section 13 is a regulatory offence, it is not a criminal offence since it is intended to protect the public interest.

The judgement notes that cases subsequent to the trial judgement here have confirmed the principle that public welfare or regulatory offences are strict liability offences and that a defence is available to someone charged with a strict liability offence.

The judgement also notes that cases dealing with this issue under the charter have held if there is any doubt whether an offence is one of strict or absolute liability, it should be construed as a strict liability of-

fence to comply with the charter. He notes that this appears to achieve the dual aim of achieving compliance with the Charter and also fairness to the accused who is left with defence of diligence. As a result, the Court of Appeal concluded that section 13 did not contravene section 7 of the charter.

As a result of these findings, the Court of Appeal found it unnecessary to deal with the issues of section 1 or severance.

On October 23, 1992 the Canadian Area Board met to review this decision of the court and considered a course of action.

The board agreed to proceed with

an application for leave to appeal to the Supreme Court of Canada. This application will be considered by the Supreme Court, and if in their opinion it has merit, it could then be appealed.

The request for appeal will take approximately six months and, if granted, up to a further 18 months for a hearing.



Local 500-514 Pensioner's Club held its annual banquet in October at the Maritime Labour Centre. Among the 280 pensioners who enjoyed the festivities was the president of the club Red Foster, seated centre.

RETIRED MEMBERS

Local 500 Vancouver

Retired July 1, 1991

	Age	Years of Service
Arthur Westman	62	29
Bent Menk	62	30
Ragnar Thorsen	65	28

Retired September 1, 1992

Norman Senior	65	16
George Haywood	65	28
Gerry Kennedy	65	40

Retired October 1, 1992

Walter Beach	65	35
Martin Ross	63	29
Ron Zarelli	60	40

Retired November 1, 1992

Robert Gauld	65	30
Kenneth Smith	65	41

Local 502

Retired September 1, 1992

Otto Frick	65	38
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Retired November 1, 1992

David Kearns	65	11
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Local 503

Retired August 1, 1992

Karel Westra	62	33
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Retired October 1, 1992

Richard Hawksworth	59	34
Peter Brennan	62	29

Local 504

Retired September 1, 1992

Ed Seymour	60	33
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Local 508

Retired August 1, 1992

Herbert Newberry	62	25
Gordon Wesley	61	38

Retired October 1, 1992

Raymond Frechette	62	28
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Local 514

Retired August 1, 1992

Carl Eck	65	40
Joseph Martin	62	15

Retired September 1, 1992

Frank Kilian	63	24
Hans Schoenke	62	38



We Remember them well

Deceased Members

Active Members

Local 500

James Mckee, 57	August 16
Gian Haughty, 49	September 14
Steve Juhasz, 60	September 12
Nick Marino, 61	November 21

Local 514

Sam Taliadouros, 53	October 27
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Retired Members

Local 500

Derek West, 56	July 29
Einar Sundstrom, 88	June 7
Fred Krell, 80	August 25
Roy Stensrud, 71	August 26
Ronald Gregerson, 66	September 3
Remi Picard, 66	September 8
Penn Wilson, 88	September 22
Alaxander Duff, 77	September 23
John Ross, 77	September 23
Harold Deppiesse, 88	September 28
Ernest Schafer, 64	October 9
Arne Sjurdal, 77	October 16

Martin Nelson, 92	October 15
Harold Carn, 79	October 6
Robert Thomson, 82	October 19
Wallace Cinnamon, 80	November 9
William Fiddis, 76	November 4
Jack McKellar, 75	November 11

Local 502

Clinton Moffat, 84	August 13
Woodburn Burton, 68	September 13
Nick Kozuback, 81	September 20
Peter Skotynski, 86	October 9
Harry Bailey, 81	November 4

Local 503

Joseph Kalinowski, 84	July 15
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Local 504

George Thompson, 82	August 24
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Local 514

Dennis Williams, 70	August 4
Andrew Kotowich, 69	October 16

The membership of the union extends their condolences to the families of our deceased brothers.

waterfront news

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