Court File No. 48/06

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

HENCO INDUSTRIES LIMITED

Applicant

And

HAUDENOSAUNEE SIX NATIONS CONFEDERACY COUNCIL, JANIE JAMIESON, DAWN SMITH, or any agent or person acting under their instructions, JOHN DOE, JANE DOE and other persons unknown

Respondents

Court File No.: 93/06

BETWEEN:

RAILINK CANADA LTD. carrying on business as the SOUTHERN ONTARIO RAILWAY

Plaintiff

And

HAUDENOSAUNEE CONFEDERACY OF MOHAWK, SENECA, CAYUGA, ONONDAGA, ONEIDA, TUSCARORA NATIONS; SIX NATIONS OF THE GRAND RIVER BAND OF INDIANS; CLYDE POWLESS; JAQUELINE HOUSE; HAZEL HILL; DAWN SMITH; SEAN MT.PLEASANT; WES HILL; JANE DOE; JOHN DOE; and PERSONS UNKNOWN

Respondents

HEARD: July 24, 2006

JUDGMENT

I am reading this judgment in open court because it is a matter of such importance to the communities and to this court.

Ladies and gentleman we speak of the Rule of Law. This case deals with an issue that is arguably the pre-eminent condition of freedom and peace in a democratic society. It is upheld wherever in the world there is liberty.

The Rule of Law is a principle not well known to people, but this case shows its importance, not just to the communities involved here but also the Rule of Law should be appreciated by all Canadians.

The Rule of Law for our purposes can be simply stated. It is the rule that every citizen from the prime minister to the poorest of our people is equally subject to and must obey the law.

It is a rule of general application. Whenever it is broken – even in a small way, we say there is injustice. We see the unfairness. It is a rule that is woven into every part of our social contract to live peacefully together. Even a small tear in the cloth of our justice system spoils the whole fabric of society.

Who is responsible for upholding the Rule of Law? The answer, of course is, each of us. I and each of my neighbours are equally responsible.

But the courts have a central role. It is the courts who are the arbiters. The crown and the police play a role – but the courts have the difficult role of applying equally to everyone the laws passed by our elected representatives.

Should the court defer to the government its role as arbiter of the Rule of Law? No indeed, but that has been submitted in this court in this case. The counsel for the crown said here, and I quote: "*Almost everyone you've heard from has asked that you (the court) leave the matter with those that are*

responsible for dealing with the rule of law"; meaning leaving that to the crown and the police.

With respect, that submission could hardly be further from the mark. The Superior Courts, of which this court is a part, are the custodians of the Rule of Law.

Consider this statement by the Chief Justice of Canada's Supreme Court: *"In the constitutional arrangements passed on to us by the British and recognized by the preamble to the Constitution Act 1867, the provincial superior courts are the foundation of the rule of law itself"* [i]

That statement is crystal clear. It is for the courts to ensure in the end that each of us is equal before the law.

Let me turn to the matter before the court. The difficult case of the occupation of Douglas Creek Estates in Caledonia.

Haldimand County – where this matter arose, is a small pastoral county of some 44,000 people. It is a rural county, a peaceful place and its population has changed little in the last century. On the west side is the Six Nations Reserve.

It is a land of fields and forests that lies in the most southerly part of Canada. A large slow river runs through the center of the county and empties into Lake Erie at its mouth. The lakeshore of yellow sand beaches, high banks and sedimentary rock make up the southern boundary of the county. There are no cities, only rural villages and a series of small towns that are placed along the shores of the green valley of the Grand River.

It is a beautiful land and has a clement climate. Much more kind than most of the rest of Canada.

When Chief Joseph Brant was asked to choose what land he wanted for his Six Nations People – in payment for fighting at the side of the British against the Americans, he is said to have searched over all of Upper Canada. The land he chose for his people was the valley lands of the Grand River. He chose 6 miles on either side of the Grand River from its mouth to its source.

It was a vast tract of land and for reasons now shrouded in over 200 years of history much of the land was alienated. The justness and fairness of how much of that land passed back from Joseph Brant and his people to the Government of Upper Canada and eventually to settlers and eventually the people who live now in the valley, is at the background of the events that led to this litigation.

The people who now live in the valley for the most part are unaware of the details of this back-story. They and their forefathers worked hard to pay for the land they now live on. They were bona fide purchasers for value without notice - as the lawyers might put it.

But the Mohawk people, the descendants of Joseph Brant have not forgotten. The Grand River lands are very much in their minds today.

With that background, let me review the important dates in this immediate matter before the court.

On February 28th, 2006, a group of native protestors occupied a large building site in Caledonia, known as Douglas Creek Estates. They barricaded it excluding the police.

The owners of the land sought an injunction.

On March 3, 2006, the matter was argued. This court issued an order requiring the occupiers to clear the site by March 10, 2006 at 10 a.m. The protestors did not leave. It is common knowledge and was captured on television that the protestors allegedly abused the sheriff reading the court order, tore up the order and on the evidence before the court burned the order of the court.

On March 17, the court found, on the evidence, the protestors in criminal contempt. They were ordered to leave Douglas Creek Estates. The order was supported by, indeed was submitted, as a draft order to the court by counsel for the Attorney General and for the Ontario Provincial Police. At the hearing, no defendant attorned to the court's jurisdiction still, a large number of native people spoke eloquently. They outlined their reasons for the blockade. They were frustrated with the slowness with which their land claims were moving. They sought to be compensated for alleged shoddy treatment in regard to the Grand River lands. Their sincerity in their frustrations is not in question. This court is alert to the poignancy of their feelings.

There was no appeal taken from that order for the protestors to take down the blockade and leave Douglas Creek either by the Attorney General, the Native

Protestors or the Police. In fact, that order stands to this day – nearly 5 months later.

On May 29th, a full 3 months after the occupation began and 2 months after the March 17, 2006 order, the court summoned the parties – including the Commissioner of the O.P.P., the Attorney General of Canada and Ontario - indeed all parties to the matter who had accepted the jurisdiction of the court and with an interest in the matter, to appear before this court. There were a number of these meetings to apprise the court and the communities involved why the court orders were not being followed and when they would be followed.

It was, and is common knowledge that the law has not been enforced. The land remains barricaded.

The fact that the Douglas Creek property is still occupied by protestors and remains under blockade in spite of a court order and after many months, with no appeal taken to the order, is strong evidence for many that the rule of law is not functioning in Caledonia.

The citizens of Caledonia may well ask why – why should I pay a fine which a judge has ordered when, on Douglas Creek Estates, the protestors do not have to obey the court's order? To that person, this court has no teeth. To that person, this is not a court at all.

That question requires an answer. But what of the native people? They too are entitled to equal access to the Rule of Law. What of the alleged injustice to them. This is our land they say. We have seized it and we will hold it – what does the law say and do for them.

These reasons for the court's ruling must also take account of those claims and rights to justice.

Let me turn for a moment to the position those speaking for the Ontario Provincial Police and the Attorney General have taken before this court.

Counsel for the police, the Attorney General, the County of Haldimand and Mr. Doxtador, counsel for the elected chief have eloquently advocated that the court should withdraw from this matter and leave the Rule of Law to others. In fact, maintain *"the status quo"*. Those are the crown's words. That is, leave the court orders outstanding and not obeyed.[ii]

The principal reasons that they give for their seemingly remarkable submissions appears to be fear – fear of undermining the land claim negotiations which are ongoing and the fact that the occupation appears to be peaceful. If, indeed, you can consider this occupation peaceful.

Land Claims Negotiations

Let me say this in regard to the land claims negotiations. The court is acutely aware of the frustration the native people have in regards to their claims over the lands that was granted to them in the "*Haldimand Grant*" There is no question, however, that the governments are committed to settling the land claims. Now both governments have appointed negotiators. These negotiations are ongoing. The court is alert to the importance of those negotiations and alert to the importance of those negotiations to the protestors. The court is also sensitive to the community blockaded. The court has been patient, nearly 5 months have passed. No party – neither the police nor the Attorney General

approached the court in March, April or in May – only at the end of May and then on the court's own motion, was the matter raised.

This court has been and will be patient but the court cannot turn a blind eye to the blatant contempt of the court's lawful order.

It is clear in this matter that the governments, both provincial and federal see this as purely a matter of a land claim negotiation. They told us that. The court, however has, as well, an interest in upholding its orders and in upholding the Rule of Law in the community. The order has been disobeyed in a public way by a large number of individuals.

The principle the court seeks to uphold is an important one. It is so important that it should be transcendent, in virtually every case that comes before the court. The negotiations are important – unquestionably, but the Rule of Law is pre-eminent. Whatever is being done should be done peacefully but also lawfully, within the Rule of Law.

Indeed, the fathers and mothers of my generation gave their lives to uphold this principle of the equality of each of us before the law.

The Henco Injunction

What should the court do with the Henco injunction? That order which ordered the protestors off the property, Henco Ltd. now wants set aside. They now say, in effect, we have made a deal, we have sold our property to the government and we now want the court orders dissolved. The government supports Henco Ltd. in this, the Attorney General of Ontario, the crown attorney and the Ontario Provincial Police all seek to dissolve the injunction. The

government says we have bought the land and we are allowing the protestors to remain.

This puts the court in an awkward position.

But, there is a finding of criminal contempt based on the order. Criminal acts are always a serious concern to the court and to the public and including the citizens of the communities who are entitled to see that the issue of a criminal delict in their midst is properly addressed. Besides, this is a very unique crime. It is contempt of our system of justice.

The law is clear. Just because Henco Ltd., and in this case, the Attorney General of Ontario and the Ontario Provincial Police are no longer interested in the enforcement of the injunction, this Court is entitled to continue the prosecution of the case for the reason that defiance of court orders transfers the conduct in question from a mere civil contempt to the realm of public depreciation of the authority of the court and tends to bring the administration of justice into scorn. It has become a penal matter for the court to deal with, not unlike any other breach of a criminal statute in Canada.

Is The Court "Functus"?

The representatives of the crown and the OPP in these hearings have submitted that this court is now functus or spent. This court must withdraw, they say.

I do not agree with that submission. In my respectful view, the court has not only a right but also an obligation to continue these proceedings or indeed *ex*

mero motu to institute new proceedings, the matter now being one of criminal contempt.[iii]

In the case of **Mamar, Inc. v. Results Marketing Ltd. (c.o.b. Handyman Solutions), [2000] F.C.J. No. 2081,** the court in a case not unlike this where the actions between the parties had settled and they then wished to have the application withdrawn, the court dismissed the motion holding that dissolution in a case such as this was in the discretion of the court. It was for the court to determine whether the offender should be punished. The court said this, relevant to our case at page 2 of 2: *"Contempt of court is a matter of public interest, and the principle that orders of the court must be obeyed deserves the greatest protection….in my view, it is only in truly exceptional cases that the court should exercise its discretion to terminate contempt of court proceedings, such as, for example, if a key witness has died or become incompetent, or when essential and necessary evidence has disappeared through no fault of the parties."*

We see in the case of **Canada Post Corp. v. Canadian Union of Postal Workers (CUPW)**, [1991] O.J. No. 2472 *"In my view it would not matter whether the order died…..in the light of the alleged contempt coming to the court's attention."*

In short then the court is not functus, to let those charges go by the board and not deal with them in accordance with the law and the principles of fundamental justice would defile this court and resign those who depend on the courts to the road to anarchy.[iv]

A similar result was reached in the case of **Regina v. United Fishermen and Allied Workers' Union et al [1968], 2 C.C.C. 257 (B.C.C.A.).** In that case at page 10, we read: *"The jurisdiction of the court to proceed in this matter is too well established to be successfully denied....." "But it is a drastic procedure which should be used cautiously only to uphold the authority of the court and its process or to enable justice to be properly administered or to maintain the authority of the law."*

Considerations for the Court

Carriage of the contempt proceeding – Clearly it is the Attorney General who should have carriage of this matter. He or she represents the public interest in the administration of justice, and is the chief law enforcement officer responsible for seeing that the criminal law is enforced. Practically, the court does not have the machinery or people to deal with a prosecution, though as we will see, it has the constitutional obligation. In cases such as this where the parties are not "interested" in pursuing the matter and the court is acting *ex mero motu* or on its own initiative, the court will have no means of investigating or taking carriage of proceedings except through the Attorney General.

The discretion of the crown and police – It is clear that the police and the crown have wide powers of discretion in when, and how to act. The police and the crown each have important roles in maintaining the peace. But, that discretion should not be used to advance a particular policy. That is not a proper exercise of their discretion. They must not use their discretion to oust the rightful jurisdiction of the court or to defeat the court's orders.[v]

The crown and the police take the position, as I have said, that this is entirely a land claims matter. That may or may not be the case – but it would be wrong to formulate a policy based on that assumption and wrongly use their discretion to further that policy.

The Role of the Crown

On this issue, the words of the court in **Canada Post Corp., supra,** are of interest, the court cited these lines with approval: *"The role of prosecutor excludes any notion of winning or losing; his* (or her) *function is a matter of public duty.....It is to be efficiently performed with an ingrained sense of the dignity, the seriousness and the justness of judicial proceedings"* Further on the same page, the court recited with approval; *"but it is an investigation that should be conducted without feeling or animus on the part of the prosecution, with the single view of determining the truth."*

The basis of the law in the Canada Post Corp. case and others is, and I quote: *"a court of Superior Jurisdiction must take steps when a public contempt as this one is comes to its attention. Court orders must be obeyed. Respect for the law and the courts is a cornerstone of our society. If any member of society affected by a court order does not like the terms of the order, it is not for that person to disobey the order. However it is possible to appeal the order or otherwise legally deal with it."*[vi]

Justice Farley in the same case quoted from the Alberta Superior Court: *"So it would be folly for any one to assume that contempt proceedings depend on*

the parties to the action or that one must await the application of the Attorney General."[xvii]

The Judge continues the quotation from the Alberta Court at page 10: *"Now, I think that that should be made crystal clear to those person in our society who through ignorance or otherwise do not know what the situation is with the law of contempt."*

The court in that passage sets out also at page 10: *"The court may ex mero motu, that is, of its own motion, institute proceedings for criminal contempt and this contempt, if confirmed, permits penalties that are virtually unlimited."* This in my respectful view overstates the Superior Court's powers but it makes the point that the courts must, to perform their constitutional mandate, have the power to deal with enforcing its processes.

Also quoted with approval by Farley, J. – we find this helpful statement: *"...the court must be assisted by the Attorney General in such cases since the court itself substantially lacks the machinery and manpower to deal with the prosecution of the contempt."* Then the Judge adds this: *"There was in the* ***Poje*** *case (see judgments of Bird, J.A., as he then was, at page 417 D.L.R., p. 56 C.C.C. and of Sidney Smith, J.A,. at 401 D.L.R., p. 38, C.C.C.) an order made allowing the Attorney General to intervene. But that order was to allow him to intervene not in the original lawsuit but in the proceedings instituted by Farris, C.J.S.C.* ***[6 W.W.R. (N.S.) 473]*** *for contempt of court."*

This is of some assistance in ascertaining the proper role of the crown in a case such as this.

Then in the **Canada Post Corp. case, supra**, the Judge sets out this which I think is helpful to this court in regard to procedure at page 11: *"Unless I am convinced otherwise, it seems to me that in any case that was referred by the court to the Attorney General where he decided not to proceed in his prosecutorial discretion that it would be incumbent upon him to advise in open court why it was felt inappropriate to proceed since in essence the Attorney General is acting to assist the court."*

Clearly the defendants must be dealt with in accordance with the principles of fundamental justice but the issue of the order not being followed must be dealt with.

In the sequel to the case of **Canada Post Corp., supra,** the case of **R. v. Kolompar, [1991] O.J. No. 2447,** a contempt proceeding, the Judge had this to say and I quote: *"We are fortunate in Canada to live under the rule of law and not under the rule of individuals. If one has a legal right, it can be protected in court. Part of our social contract as a civilized society requires that the institution of the court be respected-- which involves orders of the court being obeyed. If one does not like a particular order.....the proper and only procedure (short of obtaining a legislative amendment) is to appeal the order. However, orders must be obeyed until successfully appealed."*

The court then said this in regard to the particular postal strike involved: *"This aspect of justice* (obeying court orders) *is one of the cornerstones of our civilized society. The court is there to protect individuals and groups. The court*

can only act through orders. This justice is available and must be available (to all).....

Individuals... cannot pick and choose which order (or parts thereof) to obey.....The system and administration of justice would break down very quickly if this attitude were adopted."

How to Proceed

The government here, including the Attorney General as chief law officer, has taken an unusual part in these proceedings, in that from the beginning they entered into negotiations of the land claim with the protestors. Then on June 5th, the government purchased the occupied property. Following this they now support Henco Ltd. in asking of the court that the injunction and the order that the protestors leave the property should be dissolved.

The position of the government is that the matter is entirely a land claims matter.

The Attorney General – while being the agency that should insure the carriage of the issue of criminal contempt – is at the same time, in effect, negotiating with the protestors and is now owner of the disputed land.

It is clear that the Attorney General under our system sometimes wears a number of hats. However, to better ensure the appearance of justice, in this case, the court respectfully recommends that the Attorney consider designating a senior and experienced crown, heretofore unconnected with these proceedings, to take charge of the carriage of the issue of criminal contempt.

Because of the legitimate interest of both communities in this matter, there is authority that the designated prosecutor would report in open court as to the progress of the investigation and the carriage of the matter. In that way both the court and the wider communities would be apprised of the progress and assured that the rule of law was being adhered to in the matter with integrity and diligence.

The court recognized that there is considerable public interest that the negotiations be encouraged to a rapid and satisfactory conclusion. There is however, as well, an important issue for the court, and finally for everyone, that court orders are to be respected and that the rule of law will return to the site in Caledonia. Barricades must come down, the rule of law return and the police begin to enforce the law on the property.

As for the defendants, the legitimate interests of the native community are now being negotiated. They as well have a case dealing with their claim ongoing before the court.

The order of this court in regard to criminal contempt must not be used as a bargaining chip – nor should the occupation of the land as blackmail in those negotiations.[viii]

The province has purchased the seized land. They hold it in trust subject to the outcome of the negotiations with the native people. Each of these steps has been made with a sincere interest in resolving the matter peacefully.

The court has an obligation in logic and on the authorities to act, but to act with great care. The court will continue to be patient. The matter will be referred

to the Attorney General for carriage but neither can the court turn a blind eye to the blatant contempt of its orders and the consequence of that.

Although the defendants have not accepted this court's jurisdiction, Mr. Doxtdator, representing the elected chief of the Six Nations, has made helpful submissions during the court's hearing or process. During the case, other native people have spoken and made the court aware of their heartfelt belief that they have been unjustly treated in the dealings in the past with the Grand River Lands originally granted to them. One can understand their frustration.

However, it is common knowledge that the people of Caledonia, after 5 months of occupation, have seen security in their town replaced by lawlessness; protestors in battle fatigues, police officers in riot gear, and uncertainty of their future. Their property values reduced, racial relations with the neighbouring native people destroyed after many years of peaceful coexistence.

It is a sad, sad result on both sides but one that might be avoided in future by proactive, quick settlement of land claims and, as well, by the crown and the police responding quickly to this court's reasoned orders.

In this case, the court retains wide powers to deal with contempt – but due process of law – proper carriage of the matter by the crown – due exercise of proper discretion, and consideration for all the factors in this very difficult case – including the land claims and the avoidance of violence if this is possible, must all be considered.

The crown should have carriage of the matter but this court must continue to see that its process and orders are respected.

There are three further points I wish to make.

The first is the assertion by the counsel for the Attorney General, the police and the crown that the original order may be flawed. It is well established however, and it is a matter of logic that a criminal contempt proceeding is not answered by the assertion that the original order was erroneously granted or even void. The criminal contempt is a new and separate matter. The court has been depreciated and the court is entitled to take action. **R. v. Clark, [2001], 207 D.L.R., 4th 522.**

The second point I wish to make is that the sale of the property to the crown or the Government of Ontario for the same reasons I gave above should have no effect on the court continuing with the criminal contempt. Surely the injunction continues with the property till the court dissolves it – if the law were otherwise - an injunction could be defeated by transferring ownership. In my view, the injunction here will bind the new owner with notice – as here until it is finally dissolved.

The third and final point I would make is this: since the range of remedies a Superior Court may prescribe is wide indeed and may bind third parties, it seems to me that this court has jurisdiction to order that all negotiations be suspended in regard to the land claims involved until the barricades are removed from Douglas Creek Estates and the rule of law restored to that property.

The court is aware that the government itself issued just that edict but saw fit to resile from it before the court order had been complied with.

The negotiations are important to the native people and everyone else and I appreciate that reality, but land claim negotiations by their very nature tend to be protracted. It is trite that justice delayed is justice denied.

It is fundamental in our society that all members of the public – including the various levels of government should respect the lawful orders of the court.

Certainly government officials should not act deliberately in a way that would ignore the court's orders and hence depreciate the court and the rule of law in our society. To act otherwise, will be seen as acting in defiance of the court's order.

For that important reason, the government agents involved in these negotiations should, in deference to the court order, withdraw from these negotiations until the court orders are respected and the rule of law returned and the barricades removed.

This is a delicate matter but it seems to me that the submission of Mr. Elliot has considerable merit.

He said, and used this metaphor, that the government had with respect *"put the cart before the horse."* Return to the Rule of Law should precede the negotiations of the land claims.

In summary then, for all these reasons I have given, there will be an order that the finding of contempt of court issued by this court will be referred to the Attorney General of Ontario for carriage. The injunction issued in favour of Henco Ltd. is hereby dissolved at the request of Henco. However, that order to dissolve will not take effect till this court's order for criminal contempt has been

disposed of. Negotiations should cease till the Rule of Law returns and the barricades come down.

Those still blockading the property and those who advise them should take note of the Criminal Code, Section 127(1). It provides: *"Everyone who without lawful excuse disobeys a lawful order made by a court....is guilty of an indictable offence and is liable for imprisonment....."*

This court has no intention to abandon this matter. This court will remain patient but seized of the matter until it is resolved for the reasons I have given.

In the case of **Canada Post Corp., supra at page 11,** we read: *"Unless I am convinced otherwise, it would seem to me that in any case that was referred by the court to the Attorney General where he* (or she) *decided not to proceed in his prosecutorial discretion that it would be incumbent upon him* (or her) *to advise in open court why it was felt inappropriate to proceed since in essence the Attorney General is acting to assist the court."* That, in my view, is worth repeating.

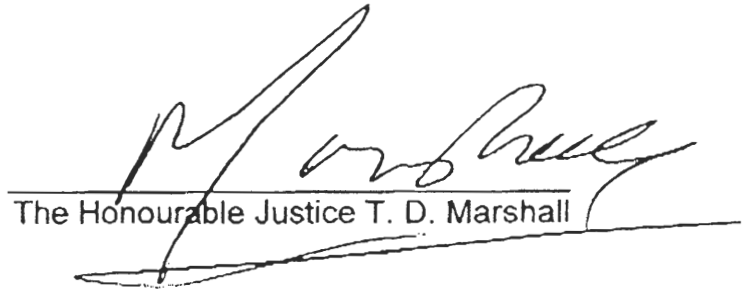
At a time to be fixed in the course of a case management meeting, a time will be set so that the court and the public may be apprised of the crown's progress or lack thereof in regard to the criminal contempt.[ix]

Therefore, this Court's order is; that the matter of the contempt is referred to the Attorney General for carriage. In the court's view, after much deliberation, there should be no further negotiations till the blockades are lifted and the occupation is ended. Then the negotiations should be pursued in earnest.

I am ordering that a copy of these reasons be sent directly to the Attorney General who has responsibility for enforcing the Criminal Law.[x]

This is the end of my judgment but in closing I would say this: I want to thank all counsel for their helpful submissions. I would especially thank Mr. Doxtdator, counsel for the chief of the elected council, Mr. Elliot, amicus curiae, indeed all of those who attempted to assist the court.

Mr. Brown, lead counsel for the crown, has been most wise and helpful in his submissions and I would hope that whoever the Attorney General gives carriage of the matter to, that Mr. Brown will continue his involvement.



The Honourable Justice T. D. Marshall

DATE: August 8, 2006

[i] MacMillan Bloedel Ltd. v. Simpson [1995] 4 S.C.R. 725 at page 753 in the 5th full paragraph (Chief Justice Lamer as he then was).
United Nurses of Alberta v. Alberta (Attorney General) [1992] 1 S.C.R. 901

[ii] Ms. Wilson for the Attorney General Ontario Written Submissions at page 34 and 35 (July 5/06). *"The Court ought to make no further orders in this proceeding..."*

[iii] Poje v. British Columbia (Attorney General) [1953] 1 S.C.R. 516 – found at page 8 in the Quicklaw report. At page 8 we read: *"It is plain, I think that so far as the learned Chief Justice was concerned, he considered that the facts before him amounted to a criminal contempt of court. So far as the immediate parties to the action were concerned, all matters in question between them had been adjusted. The plaintiff was no longer interested in enforcement of the injunction and had agreed to drop the proceedings for enforcement by way of committal. It was the court which at that point stepped in, the proceedings from then on being purely punitive. In my opinion the learned Chief Justice had jurisdiction so to deal with the matter."* Kelloch, J.
Canada Post Corp.v. Canadian Union of Postal Workers (CUPW) [1991] O.J. No. 2472
In the useful and often quoted article by I.H. Jacob's "The Inherent Jurisdiction of the Court" (1970) Current Legal Problems 23, edited by Stevens and Sons, London at page 25, 26 & 27.
See MacMillan Bloedel Ltd. v. Simpson [1995] 4 S.C.R. 725 at page 749

[iv] B. C. Rail Ltd. v. Louie et al, [1990] 46 C.P.C. (2d), 277 at page 291.
See also Justice Farley in the Canada Post Corp., supra at page 9: *"Clearly the court must take steps when a matter of public contempt comes to its attention"* and further *"If any member of society affected....does not like the terms of the order, it is not for that person to disobey the order....it is possible to appeal."*

[v] University of British Columbia Law Review, Vol. 33 #1, Amir Attaran, page 181 at page 182.

[vi] Canada Post Corp., supra, Justice Farley at page 9.

[vii] Foothills Provincial General Hospital Board v. Broad et al [1975] 57 D.L.R. (3d) 758.

[viii] Health Care Corp. of St. John's v. Newfoundland and Labrador Assn. of Public and Private Employees [2000] N.J. No. 294, Hall, J. The court there stated: *"(The courts)....alone stand between the rule of law and anarchy."*

[ix] Farley, J. in Canada Post Corp., supra at page 11, Quicklaw.

[x] St. Anne Nackawic Pulp & Paper Ltd. v. Canadian Paper Workers Union, Local 219, [1981], 35 N.B.R. (2d) 305, pages, 4, 5 and 6, Quicklaw.