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## The injunction menace

Charlotte Todes

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**The**  
**INJUNCTION**  
**MENACE**

by

**Charlotte Todes**

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# THE INJUNCTION MENACE

BY CHARLOTTE TODES

"ON strike against a wage cut." Holding their banners aloft the strikers picket, grim and determined.

Between rows of blue uniforms, swinging clubs and hostile glances, the line of ragged men, women, young boys and girls, file past the factory gate.

"Millions in Profits; Wage Cuts for Workers."

The factory windows gape; the smoke from the chimney stacks fades into thin grey streaks. Not a wheel of machinery turns.

The picket line comes to a sharp halt. A policeman on horseback blocks the way. The blue uniforms close in on the pickets menacingly. "You can't picket here. There's an injunction." The pickets move forward.

The police wield their clubs and beat the strikers who defend themselves. A police-siren shrieks; reënforcements increase the turmoil.

The strikers are herded together, bruised and bleeding, piled into a police wagon and brought before the judge who issued the injunction order. No defense is permitted; no jury selected; no witnesses are heard. The judge is prosecutor, jury and judge.

Sixty days! The strikers are rushed off to jail.

\* \* \*

Consider that such scenes as these are repeated in almost every American strike, and it is easy to see what a powerful weapon the injunction is in the hands of the bosses for smashing workers' resistance to exploitation and oppression. Judges stand always ready to issue these court orders restraining workers from carrying on some form of working class activity—organizing, picketing, distributing leaflets, holding meetings, striking—every act of workers' struggle and defense. The pretext for issuing injunctions is that such workers' activities interfere with profits and "expectancy of business," and therefore with property rights—and the courts whose function it is to protect property rights grant them readily. Striking workers against whom injunc-

tions have been issued find themselves faced not only by all the influence and resources of the employer, but also by the concentrated power of the government's machinery of repression and violence—its courts, its police terror, its militia, its prisons.

To obtain all this power that the injunction gives him, all the employer needs to do is submit affidavits to the judge, *charging* that the leaders of the strike, or the organizers of the union, are causing injuries to his business. He sets forth the ways in which he wants the activities of the workers stopped. The judge simply accepts these proposals, and writes them down in a "preliminary restraining order." The workers, with no opportunity to answer the charges, are commanded by this order to stop doing the acts complained of by the boss, and listed by the judge.

The workers' side of the case is not heard until the hearings as to whether a "temporary injunction" should be granted are called. But often the strike has already been broken by that time; the "preliminary order" alone has been sufficient to serve the purpose. Less than one percent of all preliminary injunctions actually reach trial.

When the hearings on a "temporary injunction" are finally held, if the strike has survived that long, the objections of the workers to the injunction are usually completely ignored and the employers' requests automatically granted. One judge in Philadelphia has only once in 27 years denied an employer's request for an injunction. In most cases, these temporary injunctions, which may continue indefinitely, are so effective in smashing the strike that it is seldom necessary for the boss to seek a "permanent injunction," which requires a trial. Permanent injunctions have been issued, however, which aim to prevent union activity at any time in the future.

Restraining orders and temporary injunctions have been issued by the hundreds. There is scarcely a strike or an attempt to organize in which the employer does not use this device.

Workers persisting in carrying on their struggle in the face of injunctions are arrested and charged with contempt of court. There are no fixed sentences; the judge may give any penalty he chooses. The usual defense motions, customary in cases of crim-



inal prosecution, are absent. In New York, the employers, not satisfied with the small sentences meted out to workers, recently revived an old statute, Section 600 of the Penal Code, which makes "wilful disobedience to law" an act of criminal contempt. The state, not the employer, becomes the prosecutor, and whereas previously five- to ten-day sentences and small fines had been imposed on the workers, Section 600 has brought more drastic penalties ranging from 30 days to a year. Workers have been sentenced three times for one supposed illegal act, on charges of contempt, criminal contempt, and some other charge, such as disorderly conduct, framed by the police. By this means the union is deprived of its active militant members for long periods and drained of its resources for bail and legal defense.

### *How Injunctions Arose*

Early in the 19th century the employers had attempted to prevent the rise of trade unions by having them declared illegal and prosecuting union members on charges of criminal conspiracy and restraint of trade. But the workers defied this intimidation, and the trade unions continued to grow. Even after a decision of the Massachusetts Supreme Court (1840) legalizing trade unions, the employers continued in their efforts to crush them, and finally developed the injunction as a less costly and more effective weapon.

Injunctions were first used as strike-breaking devices against the Knights of Labor in the 1880's. They were developed extensively in the railroad strike of 1886, when the roads were in the hands of receivers, and the courts, acting in the place of the employers, fought the strike by court decisions. Injunctions became more widespread and drastic after the Sherman Anti-Trust Act of 1890. This act, which forbade combinations and conspiracies in restraint of interstate and foreign commerce, did not curb the growth of monopolies and trusts. Instead it was used as a strike-breaking weapon. In 1894, under the leadership of Eugene V. Debs, the American Railway Union decided to assist the striking Pullman workers by refusing to operate Pullman cars. An injunction was issued and enforced by federal troops and 900

deputies. So sweeping and drastic was the order that Debs was arrested for violating it because he sent a telegram concerning the strike. He was sent to prison for six months.

Since the Sherman law was passed a body of precedents has been established, on the basis of judge-made laws, to serve as a powerful instrument of attack on labor, in conjunction with police brutality and employers' terror. Not only the federal but the state courts have issued sweeping injunctions, often covering every member or every prospective member of the union, outlawing the workers' rights to organize, to strike and to picket as well as the right of free speech and assemblage. Many other acts, commonly considered legal, such as talking to workers about conditions of work, distributing literature, paying strike benefits, maintaining tent colonies, parading, and holding union meetings, have been made "crimes" under these injunctions. The boycott, sympathy strikes, and refusal to work on non-union materials have also been made illegal by injunctions.

### *Injunctions Against Militant Unions*

The economic crisis has brought out in bold relief the class nature of the capitalist government, which has been carrying out the employers' program of wage-cutting and of opposition to unemployment insurance for the millions of starving and unemployed, while granting millions of dollars of "relief" to the bankers, the railroads, and other corporations. The resentment of the masses has found expression in growing struggles under the leadership of the militant unions affiliated with the Trade Union Unity League. It is not surprising, therefore, that such militant unions as the miners and the unions in the food, shoe, metal, furniture, needle, textile, and other industries, have been the special targets of attack by the employers and the government. Injunctions have been one of the instruments of repression, along with criminal syndicalism laws, frame-ups, deportations, and terrorism.

In spite of the supposed "legal" right of the workers to organize, the militant unions are outlawed, for example, by a recent federal injunction issued in Tampa, Fla., December, 1931, against

the Tobacco Workers' Industrial Union, affiliated with the Trade Union Unity League. It forbids 14,000 tobacco workers to be members of the union or to carry on any form of labor activity. This injunction was issued after the union had led a successful 72-hour general protest strike against the arrest of 15 workers for their union activity and against the employers' flagrant repressive measures and blacklisting of active workers.

The leaders of the union are enjoined from:

Publishing, issuing, distributing or in any way circulating or giving utterance to seditious literature or speeches; interference with employees by intimidation or threats; from continuing to maintain and conduct an organization known as the Tobacco Workers' Industrial Union.

The injunction virtually authorized the arrests of many workers, raids on the union offices and workers' homes, and the closing down of two sympathetic local Spanish newspapers.

Injunctions have been issued also to prohibit activities of other Left Wing working class organizations. An example was the effort to halt by injunction the recent rent strikes conducted by the Unemployed Councils and strikes to reduce the price of bread led by the United Council of Working Class Women in New York City.

### *Injunctions Against Miners*

Miners, more than any other group of workers, have suffered from injunctions aimed at strangling their efforts to resist employers' domination. In the days when the rank and file miners in the United Mine Workers of America were able, through mass pressure, to force their officials to use militant tactics, injunctions added legal authority to the illegal acts which the coal companies had already perpetrated against the workers in the company camps by spies, paid gunmen and strikebreakers.

In 1927 the higher courts upheld the 12 injunctions issued on behalf of the Red Jacket Consolidated Coal & Coke Co., forbidding the miners' union to organize the miners of the southern West Virginia coal fields. The injunctions which also prohibited the sending of funds for organization and relief purposes, and



enjoined the union from maintaining tent colonies in the vicinity of the mines, were extended to cover 316 companies comprising most of the non-union mines in these fields and so became virtually a blanket order. The injunctions were later made permanent to be revived at any time when a union became active.

Injunctions usually forbid picketing since this is the most effective means strikers have to force the employers to concede demands. For example, in an injunction issued against the miners by the Federal District Court in Ohio, miners were prohibited from "displaying any signs or banners containing any language designed to intimidate or insult employees or prospective employees within a radius of ten miles from the mines." The workers were forbidden to use the words "scab," "rat" and "yellow dog." Each picket was required to be a United States citizen able to speak the English language, although 90% of the workers were foreign-born! Pickets were enjoined not to stand on company property and required to keep 700 yards apart on public highways leading to the mines. Injunctions are also used to uphold yellow dog contracts. (*The Yellow Dog Contract*, by Elliot E. Cohen, International Pamphlets, No. 21.)

Injunctions against the miners have also included among other prohibitions: trespassing on company property; parades and marches; erection of tent colonies to house evicted strikers' families; the use of funds to fight in the courts against evictions from company houses. An injunction issued against miners in Pennsylvania forbade the singing of church hymns, on the ground that strike-breakers would overhear and be "intimidated." (See also *Labor and Coal*, by Anna Rochester, International Publishers.)

The force of the employers' terror falls heaviest upon the National Miners' Union, the only union now conducting a militant struggle against coal operators' oppression. Finding the collaboration policy of John L. Lewis and other officials of the United Mine Workers an aid to discouraging and checking strikes, the employers no longer need to use injunctions against them, but direct their terror primarily against the National Miners' Union.

In the Kentucky-Tennessee strike of 1932, led by the National Miners' Union, affiliated to the Trade Union Unity League, the



operators did not wait for an injunction order to attempt to break up the union and the strike. They used open class warfare involving frame-ups and imprisonment of organizers and active members, raiding of union headquarters and meetings, dynamiting of workers' homes, confiscation of food intended for relief, and killing of organizers and relief workers. The injunction, issued by a judge who is a shareholder in coal companies, merely made this strike-breaking program legal. Through it, the strike was outlawed. The miners were forbidden to distribute literature and to speak about organization and were ordered evicted from company houses. The injunction of the Straight Creek Coal Co. was so broad that it even forbade the attorney of the International Labor Defense to defend organizers imprisoned on charges of criminal syndicalism.

In the injunction of the Pioneer Coal Co. of Kentucky, against the National Miners' Union, the order forbade Union members:

To continue, or hold possession of its [the company's] property or any portion thereof, or houses in its mining camps...and from assembling in groups and through persuasion...trying to induce person or persons from continuing employment with it...from circulating among its employees printed matter calculated to induce its employees to quit work...

The National Miners' Union, following the policy of all the unions in the Trade Union Unity League, has defied the orders of the coal operators' court and, in the face of terrorism and murder, has continued to carry on vigorous struggles.

### *The Government Fights the Shoe Workers*

The United States Department of Labor was directly involved in the issuance of injunctions against the Independent Shoe Workers' Union, in an attempt to prevent the union from organizing workers. The Independent Shoe Workers' Union, which counted among its membership many former A. F. of L. members, had been in existence but a few months before it succeeded in making contracts with 26 shops and enrolling at least 7,000 members in New York and Brooklyn. It promised to become an important factor among the shoe workers.

Having conferred with the A. F. of L. leaders on methods of smashing this militant union, Charles G. Wood, labor conciliator of the Department of Labor, in October, 1929, sent a letter to employers having agreements with the union, instigating them to break their contracts with the union, on the ground that the chief union organizer was "an alien and a Communist," and that "as long as such agreements remain in force, the employers are voluntarily giving aid and comfort to an enemy-alien organization." A lock-out of 5,000 workers in 26 shops followed. Twenty-one sweeping injunctions were issued to smash the workers' resistance to the lock-out. A hearing was refused for several weeks after restraining orders were already in operation. The Delman Shoe Co. pointed out in its plea for an injunction, that it had "communicated with the A. F. of L. in an effort to get them to form an American union in our factory." The injunctions were granted at the solicitation of the employers' attorney, who had been the Tammany campaign manager for the judge.

Police swooped down on union headquarters, closing them, and arresting over 50 workers for violating the injunction despite the fact that the workers had not yet been served with the order. A Workers International Relief station, which fed the strikers, was also raided and closed. Mass picketing continued in violation of the injunction and more than 350 workers were arrested, many of whom were severely beaten. Many were sentenced to jail terms under Section 600. The drain on the union treasury for bail funds, the arrest of the active militant workers, the intimidation of others, smashed the strike and seriously crippled union activities for a long period.

### *Injunctions Against Food Workers*

Injunctions have been a major weapon of the employers against the Food Workers' Industrial Union. The employers are easily able to convince the judges, with whom they have close political connections, that the strikes of the union are being conducted for "unlawful" purposes or by "unlawful" methods.

Blanket injunctions covering cafeterias, bakeries, fruit stores, butcher and fish shops, have made it a crime for union organizers

or any member of the union to talk to workers about organizing against their miserable working conditions. A blanket injunction secured by the United Restaurant Owners Association, in the New York cafeteria strike of 1931, covered 230 restaurants and cafeteria owners already in the association as well as all others who might join it in future. The injunction involved about 35,000 workers who were virtually denied the right to join the union. Employers not already in the association joined it to secure the protection of its blanket injunction whenever the union attempted to organize their shops or to lead the workers in struggles against wage cuts. Similar blanket injunctions have been issued to cover all the shops controlled by the bakery owners' association, the fruit merchants,' and the butchers and fish dealers' associations. The owners of the Willow cafeteria chain in New York City have obtained a drastic injunction which prohibits the union, or any of its members, from organizing its present or future crews of workers in any of its shops.

Injunctions have not stopped the union's activities in organizing food workers. Struggles have been led by the union in defiance of injunction orders. But every strike has been accompanied by extreme violence on the part of the police and gangsters in the hire of the employers. Hundreds of arrests of workers have drained the union's resources. In the cafeteria strike of 1930-31, 1,800 were arrested, 560 of whom were given jail sentences totaling 4,000 days in jail; 400 additional arrests were made under Section 600, resulting in 240 convictions. In 1931 alone, more than 1,000 food workers were arrested in strike struggles, most of them charged with violating injunctions.

### *American Federation of Labor and Injunctions*

When the unions of the American Federation of Labor were growing their existence was challenged by sweeping injunctions. The policy of the A. F. of L. at that time was to violate injunctions by mass action. Hundreds of arrests and jail terms were imposed on the workers. Later, however, Samuel Gompers and other A. F. of L. officials advocated "limiting the use of the injunction in labor disputes" through strictly legal channels. They



adopted such methods as introducing anti-injunctions bills in the state legislatures and Congress, exposing "unfair" judges, and rewarding "fair" ones, and engaging in the political maneuvering and wire-pulling which has characterized all the attempts of the A. F. of L. to secure reforms.

The adoption, in 1914, of the Clayton Act, the supreme "achievement" of the A. F. of L., failed to stop the march of injunctions. This act was intended to prevent courts from interpreting the Sherman Act as being applicable to labor unions. The Clayton Act was demagogically hailed by Gompers as labor's "bill of rights." But the workers soon learned that it fastened the yoke of the injunction more firmly about their necks; for plenty of loop holes had been left in the act by the capitalist politicians to permit injunctions. Furthermore, by allowing private parties as well as the government to obtain injunctions in Federal courts, the act opened the way for an increase of injunctions. Finally, it was interpreted by the Supreme Court in 1921 as in no way interfering with the functioning of the Sherman Law, and injunctions were handed out faster than ever. The U. S. Supreme Court served the employers, as usual, in nullifying any law endangering their interests.

Many injunctions were used against A. F. of L. unions as long as they carried on militant struggles. But since the officials have abandoned the strike in principle, and have adopted a policy of class collaboration through compromise and surrender, injunctions are no longer a serious threat to their existence. A. F. of L. officials, however, are most active in using injunctions themselves against Left Wing unions fighting for real union conditions.

In New York, officials of A. F. of L. unions in the restaurant, cafeteria, dairy clerks, bakeries, and butchers' trades, seek out the employers of shops which are being struck by the militant Food Workers' Industrial Union and offer to make a contract with the employer in return for the payment of a sum of money for the use of the A. F. of L. union's window card. The working conditions are not improved one bit when the card is issued, while the workers are forced to become members of the A. F. of L. at exorbitant dues. The Left Wing union, continuing to strike for

union conditions, is served with an injunction secured from the court jointly by the employer and the A. F. of L. officials. The affidavits, asking for the injunction, usually denounce the militant union as a "Red" union, and maintain that the shops in question are union shops since they have signed up with the A. F. of L. Injunctions restrain the Food Workers Industrial Union from interfering with these fraudulent A. F. of L. contracts. A. F. of L. business agents have pointed out strike leaders and militant workers to the police and have testified in the courts against them, helping the employers to send many such workers for long terms in prison. Aside from the personal graft which A. F. of L. officials get through thus helping the employers smash militant unions, there is usually a close and profitable tie-up with gangsters and racketeers. (See William Z. Foster, *Misleaders of Labor.*)

Steve Katovis was murdered by a Tammany policeman during a strike against a fruit market in 1930 when A. F. of L. business agents assisted the police in dispersing a mass picketing demonstration. Later Charles Solomon, prominent member of the Socialist Party, applied for an injunction against the Food Workers Industrial Union in behalf of the employer and Local 338 of the A. F. of L. (See *Steve Katovis*, International Pamphlets, No. 9.) Officials of the A. F. of L. butchers' unions, affiliated with the United Hebrew Trades under Socialist Party control, have actively helped the employers to crush strikes and have been responsible for sending many militant workers to jail.

In the needle trades the Right Wing officials of the A. F. of L., among whom are many members of the Socialist Party, have applied for injunctions against the Needle Trades Workers Industrial Union. The most recent attempt to obtain an injunction to outlaw the industrial union was the effort of Morris Kaufman, president of the International Fur Workers' Union, against the Left Wing union and the united front committee which is being built among rank-and-file A. F. of L. members sympathetic to the program of the militant union.

Thus the A. F. of L. officials, acting as employers' agents, help the bosses to reduce the level of the workers' standards and to maintain company union conditions.

### *"Anti"-Injunction Law of 1932*

What effect will the so-called anti-injunction law, passed in 1932 and endorsed by the A. F. of L., have upon the future use of injunctions against labor? A. F. of L. officials will attempt to deceive the workers by spreading propaganda that the law has abolished the injunction. They will do this to restore some of their own lost prestige and to maintain illusions in the minds of workers that the capitalist government and courts are "fair and impartial."

But workers are suspicious when a bill called an anti-injunction bill is passed by a Congress which a few weeks previously had ignored the demands of the National Hunger Marchers calling for federal unemployment insurance for the 12,000,000 unemployed—a Congress which has consistently opposed any relief for the masses in the economic crisis. Workers are further suspicious over the fact that the capitalists, through their politicians, lobbyists and newspapers, offered so little opposition to the bill. Their distrust becomes still deeper when they see that Hoover, who has been the agent in carrying out the will of the capitalists against the workers, signed the bill.

Will this law abolish the injunction menace? A careful examination of it shows that it is full of loopholes which, as in the Clayton Act, permit evasion of the law itself and will eventually be interpreted by the courts in the interests of employers' property rights.

The law provides that injunctions shall not be issued in Federal courts to enforce the yellow dog contract or against certain other activities of unions *except* after the court finds:

That unlawful acts have been threatened or will be committed or have been committed and will be continued unless restrained. . . .

That substantial and irreparable injury to complainant's (employer's) property will follow. . . .

That greater injury will be inflicted upon complainant by denial of relief (injunction) than will be inflicted upon defendants (the workers) by the granting of relief

That complainant has no adequate remedy at law.



That the public officers charged with duty to protect complainant's property are unable or unwilling to furnish adequate protection.

These are certainly generous exceptions and what capitalist judge would not take advantage of them? Furthermore, the law covers only the Federal courts, where a relatively small number of injunctions, involving interstate commerce or covering citizens of different states, are issued. The state courts remain free to continue issuing injunctions without restrictions. Permanent federal injunctions already in existence are not revoked by the law.

In the face of the sharpening crisis, the resulting unrest and leftward movement of the masses, the government has been forced to adopt this so-called anti-injunction law as a smoke-screen to cover its hostile actions against the workers. And the employers, openly recognizing that A. F. of L. officials are harmless to their interests, assured of their complete cooperation in the bosses' anti-working class program, are only too glad to throw them this bone, to help these labor misleaders strengthen their position, so that they may continue to be useful as the agents of the bosses in the ranks of the workers. And workers may be sure that these twin enemies of the workers will continue to join in taking out injunctions against the militant unions, whenever they need them for their purposes.

### *Fighting the Injunction Menace*

Workers have never obtained their "rights" by means of capitalist laws. Whatever organizations workers have built, whatever strike activities they have conducted, whatever concessions they have wrung from the capitalists, have been accomplished by continued struggles and heroic sacrifices in mass defiance of any checks by the capitalists, their courts and police. In the same manner, the injunction weapon must be smashed by deliberate, carefully planned mass action, by concentrating efforts at selected places and by mass demonstrations inside and outside the court rooms against the arrests of militant workers.

To defeat successfully this strike-breaking menace the forces of the entire working class must be united. Among the rank and file of the workers in A. F. of L. locals there is a deep resent-

ment against the injunction and its use by A. F. of L. officials against militant unions. It has been the mass pressure of the rank and file which has forced officials to make a pretense of fighting the injunction. A successful movement against the injunction can only be achieved through the development of a broad united front drawing A. F. of L. workers, workers in militant unions and the unorganized into a common struggle.

Contrary to the futile and misleading policy of the A. F. of L. which has misdirected the workers' attention from mass struggle against injunctions toward voting for and placing faith in capitalist parties, militant activity in the legislative field must take the form of a persistent campaign to expose the class function of the courts and capitalist "democracy." Organized protest marches to Congress, to state legislatures and against the courts which issue injunctions, and circulation of anti-injunction petitions are some of the methods by which workers voice their demands. The Communist Party is the only political party which supports the T. U. U. L. program of mass violation of injunctions.

The most effective answer to the repression and terror of the employers and the government whose will it executes, is the building of strong unions under the leadership of the Trade Union Unity League. By the power of their numbers and militancy these unions will defy the bosses' injunctions. By carrying on an uncompromising struggle against wage cuts and for the improvement of the workers' conditions, these militant unions will render injunctions inoperative and powerless to defeat the aims and activities of the working class.

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