

Dead Man's Town: Violence and Legal Interpretation in *Local 1330*

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On May 26, 1937, having obtained recognition from U.S. Steel after many years of internecine battle, the Steel Workers Organizing Committee struck Youngstown Sheet & Tube and other smaller steel companies, collectively known as "Little Steel." The city was no stranger to labor strife - earlier organizing efforts had led to riots in 1916 and a tense but ultimately unsuccessful strike in 1919 - and the mill owners were prepared. They brought in replacement workers to keep the mills running and stationed "armed men, apparently well equipped with tear gas, rifles and even a few machine guns," on downtown buildings and elsewhere.¹ When striking workers set up pickets to stop anyone from entering or leaving the mills, the owners organized an airlift to drop food and other supplies behind the gates.²

The Nation sent Rose M. Stein to Youngstown to cover the strike. Her dispatch, appropriately entitled "It's War in Youngstown," began by describing the atmosphere among strikers on June 21:

It had become more than a strike. War was in the air. The weeks of preparation were bound to bear fruit this night. There would be bloodshed and murder. Some time between midnight and seven the next morning the forces opposing the C. I. O. were scheduled to go "over the top," and to break through the union lines. The union people carried signs reading "They Shall Not Pass" and gathered in large numbers to guard the gates. The city and county increased their respective police forces and added to their store of munitions.³

Several nights prior, "without warning or serious provocation," police had fired on strikers and their wives, killing two and wounding thirty-one. On the night of the 21st, severe picket line violence was avoided only when the Governor declared martial law, called in the National Guard, and ordered closure of the mills.⁴

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² *Little Steel Strike of 1937*, MAHONING VALLEY HIST. SOC'Y, <http://www.mahoninghistory.org/wdyk35-steel.htm> (2001-2002).

³ *Id.*; see also FREDERICK J. BLUE, MAHONING MEMORIES: A HISTORY OF YOUNGSTOWN AND MAHONING COUNTY (1995).

⁴ Rose Stein, *It's War in Youngstown*, THE NATION, July 3, 1937, <http://newdeal.feri.org/nation/na37145p012.htm>.

⁵ JENNIFER SAPPINGTON, BRUCE SPRINGSTEEN'S YOUNGSTOWN: A CULTURAL HISTORY OF A DECLINE OF A CITY (Feb. 2006) (unpublished manuscript) (available at www.ubalt.edu/downloads/sappington_jennifer.pdf) (citing DAVID BRODY, LABOR IN CRISIS (1965) and DAVID BRODY, STEELWORKERS IN AMERICA: THE NON-UNION ERA (1998)).

Local authorities responded by arresting anyone associated with the strikers – including Stein herself, who was jailed overnight, where she heard the cries of other workers apparently being beaten. After “influential people” secured her release, the district attorney apologized. “We are simply going crazy here,” he explained...“I’m afraid of the C.I.O. I am very much afraid of it. I am afraid that if this keeps up, in another year or two people like me will be put up against the wall and shot.”⁵ The strike collapsed soon thereafter, though steelworkers at “Little Steel” companies ultimately did win union representation in 1942.

Forty years later, Youngstown was again the site of a pivotal moment in U.S. labor history. In the wake of the 1970s energy crisis and persistent stagflation, U.S. Steel contemplated closing its plants in the Mahoning Valley. The stakes were clear: Youngstown produced more steel than any U.S. city except Pittsburgh, and the collapse of the industry would shatter the local economy. A local manager implored the company not to do so, and worked together with the union and rank-and-file workers to improve profitability over a period of months. When U.S. Steel decided to close anyway, workers occupied the ground floor of their headquarters in Pittsburgh, began to raise funds to purchase the plant on their own, and ultimately filed suit under breach of contract, promissory estoppel and antitrust theories.

At a pretrial conference, Federal District Judge Thomas Lambros suggested yet another legal theory: owing to the long history of steel production in the region, and the continued centrality of steel to the economy and community, the workers and community may have developed a property right in the plants. For decades, he said, “lives and destinies of the inhabitants of [the Mahoning Valley] were based and planned on the basis of [one] institution: Steel.”⁶ Perhaps they should have had a right of first refusal to purchase the plant at fair market value, or an easement or servitude in its continued operation such that U.S. Steel would need to pay damages in the event of closure. This would of course be a novel claim, but Judge Lambros felt the Court had to do more than “apply blackletter law to facts in a mechanical way.” Rather, he noted, “[i]t is the job of our courts to air grievances and bitterness and to resolve disputes without violence and hatred.”⁷

It was not to be. Lambros’ decision is not exactly controversial, though various scholars – including Karl Klare, Joseph Singer, and Michal Fischl at the conference⁸ – have argued that he could have held for the workers. Lambros found that the company had entered into no contract with the workers under which it committed to keep the plants open, and had made no promise to keep the plants open that could reasonably induce reliance. And while he felt that “United States Steel should not be permitted to leave the Youngstown area devastated after drawing from the lifeblood of the community for so many years,” he held that “the mechanism to reach this ideal

⁵ Rose Stein, *It’s War in Youngstown*, THE NATION, July 3, 1937, available at <http://newdeal.feri.org/nation/na37145p012.htm>.

⁶ *United Steel Workers, Local 1330 v. U.S. Steel*, 492 F.Supp 1, 9 (N.D. Ohio), *aff’d in part, vacated and remanded in part* 631 F.2d 1264 (6th Cir. 1980).

⁷ *Id.*

⁸ Symposium, *Local 1330 v. U.S. Steel: 30 Years Later* (Feb. 25 2011), www.legalleft.org/conference/local1330.

settlement, to recognize this new property right, is not now in existence in the code of laws of our nation.”⁹ The Sixth Circuit affirmed. U.S. Steel’s sole liability was the severance package enumerated in its union contract: nothing for workers with less than three years of tenure, and a maximum of eight weeks severance for the longest-serving workers. It shuttered and tore down the plants, other companies followed suit, and the regional economy never recovered. Today Youngstown’s population is down by over 60% from its postwar peak, roughly the same drop as in Detroit, and city leaders have abandoned revitalization projects in favor of “controlled shrinkage,” a strategy of turning dead neighborhoods into green space rather than continuing to rot.¹⁰

These two moments in the life of Youngstown—the Little Steel strike of 1937 and the Local 1330 case in 1980—marked the beginning and the end of industrial unionism and a middle-class standard of living for steelworkers. They differed in many telling ways. The workers ultimately won the former fight, and lost the latter. The battlefields were also different: one played out in the street, the other in court. Yet the two events shared an important similarity: contrary to Judge Lambros’ view of our courts’ function, both disputes involved violence. Like all judicial acts, the Youngstown decision took place “in a field of pain and death,” to use Robert Cover’s memorable phrase.¹¹ Judicial pronouncements involve far more than the application of doctrine to facts, far more than textual exegesis. That the police and other authorities will enforce those decisions – with truncheons where necessary, even in civil matters – helps render them authoritative in the first place. When judges “have finished their work, they frequently leave behind victims whose lives have been torn apart by these organized, social practices of violence.”¹²

Lambros did not, of course, sign any death warrants or order any workers confined. What followed was not his fault. But the Youngstown decisions legitimated U.S. Steel’s refusal to provide workers with additional funds to support their families or to relocate after the collapse of the local economy, as well as U.S. Steel’s power to exclude workers from the factory grounds, using force where necessary. They also helped foster substantial private violence: earlier closings had led to significantly higher levels of “aggressive feelings, anxiety, feelings of victimization, and alcohol abuse,”¹³ and in the years following the closure of the Ohio and McDonald Works, admissions to mental health centers soared, as did child abuse and other domestic violence cases.¹⁴ Many steel workers’ children undoubtedly saw their life chances forever diminished.

In the end, though, that the workers lost is hardly surprising. The decisions were just another chapter – a late, perhaps final one – that Steel inscribed on steelworkers’ and their loved ones’ bodies. Molten steel flows at nearly 3,000 degrees Fahrenheit,

⁹ *Id.* at 10.

¹⁰ Karl Klare, *Teaching Local 1330—Reflections on Critical Legal Pedagogy*, 7 UNBOUND: HARV. J. LEGAL LEFT 58, 60 n.6 (2011).

¹¹ Robert Cover, *Violence and the Word*, 95 YALE L.J. 1601, 1601 (1986).

¹² *Id.*

¹³ TERRY F. BUSS AND F. STEVENS REDBURN, SHUTDOWN AT YOUNGSTOWN: PUBLIC POLICY FOR MASS UNEMPLOYMENT 45 (1983).

¹⁴ Klare, *supra* note 10, at 60-61 n.7.

and particularly in older blast furnaces accidents were not uncommon. In turn-of-the-century mills, “[m]en lost arms, legs, and were ‘burned to a cinder.’”¹⁵ Conditions of course improved over time, but remained hot, fast-paced, and often dangerous, and even today the work is often “compared to standing on top of the sun.”¹⁶ The products of that labor were often no less destructive: Youngstown had been a key site for weapons manufacture since the Civil War, and in the Twentieth Century its steel went into tanks, guns, and other machinery of death.

Is it any wonder, then, that commentators have repeatedly analogized steelworkers’ struggles to war, and drawn on violent metaphors to understand deindustrialization’s effects? Note for example the pervasiveness of violent metaphors and terminology in Judge Lambros’ opinion. U.S. Steel, he wrote, had for years drawn from the “lifeblood” of the community;¹⁷ the Valley had thrived in part due to “the insatiable maw of four major wars,” and now suffered as the nation sought to “[b]eat swords into ploughsares” after Vietnam;¹⁸ an EPA analysis cited in the opinion found that requiring full compliance with environmental mandates would “result in severe economic *dislocation*” within the valley;¹⁹ and the 3,500 workers were “victims of the economic shifts *forced* on this nation by recent events.”²⁰ Steelworker Mike Stout likewise drew on war metaphors to describe the closures’ effect:

[I]t was just like somebody pulled the floor out from underneath these workers and these communities and the psychological effect was even more devastating than the economic effect . . . Within a five year period from 1981 through 1986, I personally knew ninety-one workers under the age of sixty who had died of strokes, cancer, heart attacks or suicide. It was very much a war like any other war that you can talk about or read about. It wasn’t a military war. It was an economic war.²¹

A field of pain and death. “The perpetrator and victim of organized violence,” Cover wrote, “will undergo achingly disparate significant experiences.”²² Judge Lambros certainly appreciated that his decision would lead to pain, but the pain necessarily remained “remote, unreal, and largely unshared,”²³ for pain *cannot* be shared in ordinary language, much less legal language. For the workers, on the other hand “the justification for the violence recede[d] in reality and significance in proportion to the

¹⁵ JOHN E. BODNAR, STEELTON: IMMIGRATION AND INDUSTRIALIZATION, 1870-1940, at 38 (1977).

¹⁶ Mary Dunlap & Nick Hammond, *Steel Heat*, ASS’N FOR IRON & STEEL TECH., www.aist.org/safetyfirst/Safety_Aug10.pdf (Aug. 2010).

¹⁷ *Local 1330*, 492 F.Supp. at 10.

¹⁸ *Id.* at 3.

¹⁹ *Id.*

²⁰ *Id.*

²¹ Mike Stout, Remembering Pittsburgh, Remarks at *Local 1330 v. U.S. Steel: 30 Years Later* (Feb. 25, 2011), in 7 UNBOUND: HARV. J. LEGAL LEFT 50, 50-57 (2011).

²² Cover, *supra* note 11, at 1629.

²³ *Id.*

overwhelming reality of the pain and fear that [was] suffered."²⁴ Pain can destroy our sense of self by destroying language itself.²⁵ That pain may be immediate and physical, the pain of being shot, beaten, gassed, or burned. Or it may be psychological, the pain of radical uncertainty, rejection, the dissolution of community. In such pain's grasp, how could one accept as legitimate the legal system that sanctioned it? How could one not feel like the plaything of alien forces?

The metaphor of "dislocation" - so often utilized in writings about Youngstown and deindustrialization generally - thus feels especially apt, signifying as it does both the ripping of a joint out of socket, and the jarring experience of no longer recognizing a place, or one's own place. In the early 1980s, as the New Deal coalition splintered, workers found themselves with few allies in government, labor, or elsewhere. The institutions that once organized working class life were collapsing. It is telling, then, that the leading contemporaneous artifact of (white) working class identity - Bruce Springsteen's smash hit single *Born in the U.S.A.* - paints a picture of a fractured self.²⁶ Despite Reagan's efforts to co-opt the song, Springsteen's narrator is hardly jingoistic. Rather, he is destabilized by his search for work and for meaning after returning home from Vietnam, holding on to national pride while under assault "from abstract economic forces as wispy as the fog of jungle warfare."²⁷ The first verse is chilling, particularly in an acoustic demo recorded in 1982: "Born down in a dead man's town/The first kick I took was when I hit the ground/You end up like a dog that's been beat too much/"Till you spend half your life just covering up."

Yet again, violent metaphors for working class experience. Like so many other industrial cities, Youngstown since *Local 1330* and the closures has become a shadow of its former self, a field of pain and death, a dead man's town.

²⁴ *Id.*

²⁵ ELAINE SCARRY, *THE BODY IN PAIN* 4 (1985), cited in Cover, *supra* note 11, at 1603.

²⁶ See Jefferson R. Cowie & Lauren Boehm, *Dead Man's Town: "Born in the U.S.A.," Social History, and Working-Class Identity*, 58 *AM. Q.* 353, 362 (2006) (describing song as "a conflicted statement about a conflicted identity").

²⁷ *Id.* at 362.