1

PM-1 3 1/2"x4" PHOTOGRAPHIC MICROCOPY TARGET
NBS 1010a ANSI/ISO #2 EQUIVALENT

PRECISIONSM RESOLUTION TARGETS

National Library
of Canada

Acquisitions and
Bibliographic Services Branch

395 Wellington Street
Ottawa, Ontario
K1A 0N4

Bibliothèque nationale
du Canada

Direction des acquisitions et
des services bibliographiques

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Your file - Votre référence

Our file - Notre référence

NOTICE

The quality of this microform is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Reproduction in full or in part of this microform is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30, and subsequent amendments.

AVIS

La qualité de cette microforme dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

La reproduction, même partielle, de cette microforme est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30, et ses amendements subséquents.

FEMINIST POLITICAL ECONOMY?

GENDER, CLASS, and THE STATE:

THE ONTARIO FACTORIES' ACT OF 1884

by

Judith Bacon Hon.B.A.

A thesis submitted to

the Faculty of Graduate Studies and Research

in partial fulfillment for the degree of

Master of Arts

in Sociology

Carleton University

OTTAWA, ONTARIO

March 30 1995

copyright 1995 Judith Bacon

National Library
of Canada

Bibliothèque nationale
du Canada

Acquisitions and
Bibliographic Services Branch

Direction des acquisitions et
des services bibliographiques

395 Wellington Street
Ottawa, Ontario
K1A 0N4

395, rue Wellington
Ottawa (Ontario)
K1A 0N4

Vous le voyez référencé

vous le voyez référencé

THE AUTHOR HAS GRANTED AN
IRREVOCABLE NON-EXCLUSIVE
LICENCE ALLOWING THE NATIONAL
LIBRARY OF CANADA TO
REPRODUCE, LOAN, DISTRIBUTE OR
SELL COPIES OF HIS/HER THESIS BY
ANY MEANS AND IN ANY FORM OR
FORMAT, MAKING THIS THESIS
AVAILABLE TO INTERESTED
PERSONS.

L'AUTEUR A ACCORDE UNE LICENCE
IRREVOCABLE ET NON EXCLUSIVE
PERMETTANT A LA BIBLIOTHEQUE
NATIONALE DU CANADA DE
REPRODUIRE, PRETER, DISTRIBUER
OU VENDRE DES COPIES DE SA
THESE DE QUELQUE MANIERE ET
SOUS QUELQUE FORME QUE CE SOIT
POUR METTRE DES EXEMPLAIRES DE
CETTE THESE A LA DISPOSITION DES
PERSONNE INTERESSEES

THE AUTHOR RETAINS OWNERSHIP
OF THE COPYRIGHT IN HIS/HER
THESIS. NEITHER THE THESIS NOR
SUBSTANTIAL EXTRACTS FROM IT
MAY BE PRINTED OR OTHERWISE
REPRODUCED WITHOUT HIS/HER
PERMISSION.

L'AUTEUR CONSERVE LA PROPRIETE
DU DROIT D'AUTEUR QUI PROTEGE
SA THESE. NI LA THESE NI DES
EXTRAITS SUBSTANTIELS DE CELLE-
CI NE DOIVENT ETRE IMPRIMES OU
AUTREMENT REPRODUITS SANS SON
AUTORISATION

ISBN 0-612-02975-1

Canada

Name _____

Dissertation Abstracts International is arranged by broad, general subject categories. Please select the one subject which most nearly describes the content of your dissertation. Enter the corresponding four-digit code in the spaces provided.

U-M-I

SUBJECT TERM

SUBJECT CODE

Subject Categories

THE HUMANITIES AND SOCIAL SCIENCES

COMMUNICATIONS AND THE ARTS

Architecture 0729
Art History 0377
Cinema 0900
Dance 0378
Fine Arts 0357
Information Science 0723
Journalism 0391
Library Science 0399
Mass Communications 0708
Music 0413
Speech Communication 0459
Theater 0465

EDUCATION

General 0515
Administration 0514
Adult and Continuing 0516
Agricultural 0517
Art 0273
Bilingual and Multicultural 0282
Business 0688
Community College 0275
Curriculum and Instruction 0727
Early Childhood 0518
Elementary 0524
Finance 0277
Guidance and Counseling 0519
Health 0680
Higher 0745
History of 0570
Home Economics 0278
Industrial 0521
Language and Literature 0279
Mathematics 0280
Music 0522
Philosophy of 0998
Physical 0523

Psychology 0525
Reading 0535
Religious 0527
Sciences 0714
Secondary 0533
Social Sciences 0534
Sociology of 0340
Special 0529
Teacher Training 0530
Technology 0710
Tests and Measurements 0288
Vocational 0747

LANGUAGE, LITERATURE AND LINGUISTICS

Language
General 0679
Ancient 0289
Linguistics 0290
Modern 0291
Literature
General 0401
Classical 0294
Comparative 0295
Medieval 0297
Modern 0298
African 0316
American 0591
Asian 0305
Canadian (English) 0352
Canadian (French) 0355
English 0593
Germanic 0311
Latin American 0312
Middle Eastern 0315
Romance 0313
Slavic and East European 0314

PHILOSOPHY, RELIGION AND THEOLOGY

Philosophy 0422
Religion
General 0318
Biblical Studies 0321
Clergy 0319
History of 0320
Philosophy of 0322
Theology 0469

SOCIAL SCIENCES

American Studies 0323
Anthropology
Archaeology 0324
Cultural 0326
Physical 0327
Business Administration
General 0310
Accounting 0272
Banking 0770
Management 0454
Marketing 0338
Canadian Studies 0385
Economics
General 0501
Agricultural 0503
Commerce Business 0505
Finance 0508
History 0509
Labor 0510
Theory 0511
Folklore 0358
Geography 0366
Gerontology 0351
History
General 0578

Ancient 0579
Medieval 0581
Modern 0582
Black 0328
African 0331
Asia, Australia and Oceania 0332
Canadian 0334
European 0335
Latin American 0336
Middle Eastern 0337
United States 0585
History of Science 0398
Law
Political Science
General 0615
International Law and Relations 0616
Public Administration 0617
Recreation 0814
Social Work 0452
Sociology
General 0626
Criminology and Penology 0627
Demography 0938
Ethnic and Racial Studies 0631
Individual and Family Studies 0628
Industrial and Labor Relations 0629
Public and Social Welfare 0630
Social Structure and Development 0700
Theory and Methods 0344
Transportation 0709
Urban and Regional Planning 0999
Women's Studies 0453

THE SCIENCES AND ENGINEERING

BIOLOGICAL SCIENCES

Agriculture
General 0473
Agronomy 0285
Animal Culture and Nutrition 0475
Animal Pathology 0476
Food Science and Technology 0359
Forestry and Wildlife 0478
Plant Culture 0479
Plant Pathology 0480
Plant Physiology 0817
Range Management 0777
Wood Technology 0746
Biology
General 0306
Anatomy 0287
Biostatistics 0308
Botany 0309
Cell 0379
Ecology 0329
Entomology 0353
Genetics 0369
Limnology 0793
Microbiology 0410
Molecular 0307
Neuroscience 0317
Oceanography 0416
Physiology 0433
Radiation 0821
Veterinary Science 0778
Zoology 0472
Biophysics
General 0786
Medical 0760
EARTH SCIENCES
Biogeochemistry 0425
Geochemistry 0996

Geodesy 0370
Geology 0372
Geophysics 0373
Hydrology 0388
Mineralogy 0411
Paleobotany 0345
Paleoecology 0426
Paleontology 0418
Paleozoology 0985
Palynology 0427
Physical Geography 0368
Physical Oceanography 0415

HEALTH AND ENVIRONMENTAL SCIENCES

Environmental Sciences 0768
Health Sciences
General 0566
Audiology 0300
Chemotherapy 0992
Dentistry 0567
Education 0350
Hospital Management 0769
Human Development 0758
Immunology 0982
Medicine and Surgery 0564
Mental Health 0347
Nursing 0569
Nutrition 0570
Obstetrics and Gynecology 0380
Occupational Health and Therapy 0354
Ophthalmology 0381
Pathology 0571
Pharmacology 0419
Pharmacy 0572
Physical Therapy 0382
Public Health 0573
Radiology 0574
Recreation 0575

Speech Pathology 0460
Toxicology 0383
Home Economics 0386

PHYSICAL SCIENCES

Pure Sciences
Chemistry
General 0485
Agricultural 0749
Analytical 0486
Biochemistry 0487
Inorganic 0488
Nuclear 0738
Organic 0490
Pharmaceutical 0491
Physical 0494
Polymer 0495
Radiation 0754
Mathematics 0405
Physics
General 0605
Acoustics 0986
Astronomy and Astrophysics 0606
Atmospheric Science 0608
Atomic 0748
Electronics and Electricity 0607
Elementary Particles and High Energy 0798
Fluid and Plasma 0759
Molecular 0609
Nuclear 0610
Optics 0752
Radiation 0756
Solid State 0611
Statistics 0463
Applied Sciences
Applied Mechanics 0346
Computer Science 0984

Engineering
General 0537
Aerospace 0538
Agricultural 0539
Automotive 0540
Biomedical 0541
Chemical 0542
Civil 0543
Electronics and Electrical 0544
Heat and Thermodynamics 0348
Hydraulic 0545
Industrial 0546
Marine 0547
Materials Science 0799
Mechanical 0548
Metallurgy 0741
Mining 0551
Nuclear 0552
Packaging 0549
Petroleum 0761
Sanitary and Municipal 0553
System Science 0799
Geotechnology 0421
Operations Research 0799
Plastics Technology 0799
Textile Technology 0999

PSYCHOLOGY

General 0621
Behavioral 0381
Clinical 0622
Developmental 0623
Experimental 0624
Industrial 0625
Personality 0626
Physiological 0981
Psychobiology 0344
Psychometrics 0631
Social 0454

The undersigned recommend to the Faculty of
Graduate Studies and Research acceptance of the thesis:

Feminist Political Economy?
Gender, Class, and the State:
The Ontario Factories' Act of 1884

submitted by Judith M. Bacon, B.A.
in partial fulfilment of the requirements for
the degree of Master of Arts

....
Thesis supervisor

....
Chairman, Department of
Sociology and Anthropology

April 1995
Carleton University

Abstract

The Ontario Factories' Act of 1884 represents the first health and safety legislation in Ontario to protect the conditions and terms of workers' employment. This Act contained three basic provisions: first, those regulating child and female labour; second, those regulating all factory work; and finally, those dealing with administration and enforcement.

Many conditions in the political economy of nineteenth century Ontario produced this Act. Both the historical context of Ontario in the 1880s and the theories of gender, class, and the state all contributed to the establishment of legal protection for the working-class. An examination of the inspectorate and subsequent implementation of this Act reveals that this legislation did benefit the working-class. Due to the inspectors' efforts, health and safety hazards were diminished in the workplace. "Protection", however, should have been equally extended to both men and women. In other words, women both lost and gained from the Ontario Factories' Act of 1884. The conditions of their employment were improved, but at the cost to their equality.

Acknowledgments

There are many people who deserve thanks for their help, both academic and personal. All of them should know that their interest and support made this thesis possible.

First, I would like to express my gratitude and respect to both Wallace Clement and Marilyn Barber. As far as academic supervisors, I could not have asked for better. You gave me excellent guidance and insight, were extremely supportive, and always available at a moments notice. But most of all, your interest and enthusiasm in my work provided the motivation to complete this project.

I owe a great deal to my family for their love and support in these past few months. Your confidence in me gave me the courage to move back to Ottawa to complete this goal....Thank you Jenny for always being there and letting me phone at all hours of the day and night. A very special thank you to Dad, Karen, Mom, and Bob for believing in me, which in turn, allowed me to believe in myself. I want you to know that I could not have done this without you.

Finally, I am grateful to all of my friends, but especially to Helen and Carl. Thank you for sharing your experiences with me and for the hours spent over coffee and on the phone, acting as my sounding board. Your humour, patience, understanding, and friendship kept me sane throughout this process.

Table of Contents

Abstract.....	i
Acknowledgements.....	ii
List of Abbreviations.....	v
Introduction.....	1
 Chapter 1	
The Political Economy of Nineteenth Century	
Ontario I.....	8
The Rise of Industrialism in Ontario.....	8
Working-Class Family.....	11
Health and Safety Hazards.....	13
Women and Paid Labour.....	18
Domestic Service.....	20
Female Factory Wages.....	23
 Chapter 2	
The Political Economy of Nineteenth Century	
Ontario II.....	28
The Complexities of Gender and Class.....	29
Gender Politics and Protective Legislation....	29
Class and Class Conflict.....	35
Role of the State.....	50
The State and Regulation Theory.....	51
Labour, Capital, and Politics in nineteenth century Canada.....	53
Women and the State.....	56
 Chapter 3	
The Ontario Factories' Act of 1884.....	64
Provision One.....	65
Provision Two.....	67
Provision Three.....	69
"Boundaries" of the Act.....	73

Chapter 4

Early British Factory Inspectorate.....	81
Punishment versus Persuasion.....	95
Compliance Strategy or Bargain and Bluff.....	98

Chapter 5

The Case of Ontario - Rethinking Tucker.....	106
Tucker's Theory Regarding Enforcement.....	107
Rethinking Tucker.....	116
Class Power.....	118
The Ontario Inspectorate: Reporting Structure, Mandate, and Information Network.....	123
The Inspectors' World Views.....	129
The Enforcement Strategy of the Inspectorate.....	139
Amendments 1886 - 1900.....	147

Conclusion.....	154
------------------------	------------

Appendix I.....	161
-----------------	-----

Appendix II.....	162
------------------	-----

Bibliography.....	163
-------------------	-----

List of Abbreviations

RCRLC.....Royal Commission on the Relations of
Labour and Capital

CMA.....Canadian Manufacturers' Association

TLC.....Trades and Labour Congress

WCTU.....Women's Christian Temperance Union

NCWC.....National Council of Women of Canada

Introduction

43 fatalities...651 not fatal...represent a great deal of suffering and misery, and many have been maimed in various ways for life, some having lost a foot or a leg, others a hand or arm, some an eye, and very many one or more fingers. A few of the victims of injury (fatal and otherwise) were females, for accident is no respecter (sic) of sex. Youth, also, is among the maimed, and old age is not infrequently reported as having met with serious mishap and even death...the number of unfortunates would have been much greater had not factory legislation stepped in to enforce protection...(Inspector of Factories, 1896: 11-12).

Industrialization and expansion in nineteenth century Ontario had profound implications for the health and safety of the working-classes: men, women, and children. Industrial accidents were indiscriminate of sex or age. Workers were maimed and killed; the "unfortunates" representing young and old alike. The number of mishaps, however, would have increased had not factory legislation been implemented to enforce "protection".

In nineteenth century Ontario, public policy reflected the needs and interests of the employer classes (Pentland, 1981:174). The Ontario Factories Act of 1884 and its subsequent spin-off of amendments from 1886 to 1900, however, marked a substantive break with this tradition. This Act and the series of amendments which occurred within the realm of administration and enforcement represents the first labour legislation to protect the conditions and terms of workers' employment. This Act contained three basic provisions: first, those regulating child and female labour; second, those regulating all factory work; and finally, those dealing with administration and enforcement (Ontario Factories'

Act, 1884).

These three provisions provoke several key questions which motivate this thesis. First, what conditions in the political economy of nineteenth century Ontario produced this Act which for the first time extended health and safety protection to the working-class, and special protection to women? That is, what historical, material, political, and ideological factors contributed to protective labour legislation for the working-class, both men and women? And second, how was this Act enforced? Was the power of the inspectorate utilized for the benefit of the working-class? In other words, what did Ontario workers gain from health and safety legislation? Were health hazards diminished in the workplace due to this statute?

This discussion will be conducted from a feminist political economy tradition. According to Maroney and Luxton, there is a certain congruence between feminist theory and political economy. Both try to understand society in a multidimensional, holistic way with power as a fundamental category. In fact, each could be synthesized to the advantage of both. On one hand, political economy offers feminism powerful conceptual categories (1987:6). That is, it offers a macrostructural theory of economic, political, and cultural/ideological phenomena combined. The focus is materialist, historical and dynamic (Clement, 1987:454). On the other hand, feminism challenges the sex-blind, race-blind nature of political economy (Maroney and Luxton, 1987; Armstrong and Armstrong, 1987). Feminist political economy works towards a truly

integrated study of society. It understands gender, class, race, and sexuality as fundamental, dynamic, conceptual categories which are both shaped and influenced by socio-economic structures and the state (Maroney and Luxton, 1987:27-28).

Traditionally, gender has been largely ignored in studies of the implementation of factory legislation. Certainly there is no mention of gender in the literature pertaining to the British inspectorate. Moreover, in his examination of health and safety legislation in nineteenth century Ontario, Eric Tucker pays close attention to the tenets of gender, class, and the state. But again, gender takes somewhat of a "backburner" in his chapter on the implementation of Ontario's factory legislation. Within chapter five, I explore Tucker's references to gender and enforcement and attempt to "bring gender back in" by examining the gendering of enforcement. Nonetheless, gender and the inspectorate is an important element still underplayed and will be left for future research.

With this in mind, chapters one and two both explore the political economy of nineteenth century Ontario. On a more substantive level, chapter one examines the historical context of nineteenth century Ontario. Many factors contributed to the need for health and safety legislation: the rise of capitalism, the role of immigration, the material subsistence of the working-class family, and the experience of women and paid labour. Industrialization had profound implications for the health and safety of the working-classes. Each member of the working-class

family was needed and expected to contribute to the households' daily subsistence needs. Women, however, were targeted for special protection. This necessitates an inquiry into their conditions of work in Ontario's early mills and factories.

On a more abstract and theoretical level, chapter two explores the complexities of gender, class, and the state in the establishment of health and safety legislation for the working-class in nineteenth century Ontario. In understanding the rise of protective legislation and the complexities of gender and class we need to understand them as a unitary system; that is, we need to conceptualize men and women as actors influenced by both their class positions and their "male experience" or "female experience" (Jaggar, 1983). Gender did have a profound impact on this legislation. Women were blatantly constructed as physically and morally inferior to men and deemed in need of special protection. In fact, based on their gender, the Ontario Factories' Act of 1884 extended special protection to women. While gender certainly contributed to the debates raging in the 1880s concerning protective legislation, we need to understand the social relations within capitalist society as a combination of both class and gender. Men and women, both from the employer and working classes, all had something to say about the need for protection in the workplace. What did each group want or not want in the form of legal protection? Moreover, who had the power to enforce their ideas and subsequently make the Ontario Factories Act of 1884 a reality?

In chapter two, we will also examine the legitimate use of authority or the role of the state. Was the state an autonomous decision-making body void of class and gender interests? Or, were class and gender articulated in the form of state intervention with respect to protective legislation? We will examine Jenson's theory of the state, regulation, and the politics of action in order to understand the state's role with respect to health and safety legislation. Moreover, we will concentrate on gender, the state, and special legislative protection for women.

While chapters one and two peruse the different levels of abstraction which contribute to Ontario's first health and safety legislation, chapter three introduces the Ontario Factories' Act of 1884. In this chapter, we will investigate all three provisions of this Act. What did this legislation include and what escaped its boundaries? This Act defined a factory and offered shelter only to those as explicated. In fact, several occupations were continuously excluded from the terms of this health and safety legislation. We will examine who was protected by the terms and conditions of this Act and who was not. In other words, was it better to be inside or outside the protective laws from the viewpoint of the working-class?

Chapters four and five examine the implementation of factory legislation or the inspectorate. Was the power of the inspectorate utilized for the benefit of the working-class, men and women? In chapter four, we begin to answer this question by examining the factory inspectorate in early nineteenth century Britain. It is

important to review this literature for several reasons. First, the Ontario factory inspectorate in the 1880s were both familiar with and influenced by British and North American models of enforcement. And second, in his comprehensive analysis of the Ontario factory inspectorate, Tucker applies to Canada ideas which were first developed in the British context. Overall, this literature will not only help us to further theorize about the inspectorate in nineteenth century Ontario but will also add to our understanding of Tucker.

In chapter five, we focus on the inspectorate in nineteenth century Ontario. Eric Tucker examines the law and politics of occupational health and safety regulation in Ontario from 1850 to 1914. His work represents the most contemporary and comprehensive analysis of health and safety legislation in late nineteenth and early twentieth century Ontario. More specifically, we will examine Tucker's work on the implementation of factory legislation in Ontario from 1886 to 1900. He argues that the Ontario Factories' Act of 1884 was largely inoperative due to the enforcement procedure of the inspectorate. Essentially Tucker equates prosecution with success. Since the Ontario inspectorate did not take a strong prosecutorial stance, they failed in their mandate to exercise their power for the benefit of the working-class. He argues, ultimately, that Ontario workers were unable to get the Ontario Factories' Act of 1884 enforced to their satisfaction or to significantly alter the contours of the capitalist industrial order and the state institutions which

supported it (Tucker, 1990:137-176).

While Tucker conducts a thorough investigation into health and safety legislation and I agree with most of his substantive evidence in recreating the 1880s in Ontario, some of his claims need to be rethought. I give such central importance to Tucker because I disagree with his conclusions concerning the efficacy of the Ontario inspectorate; that is, I have problems with his views on the relative merits of persuasion versus prosecutorial strategy, his examination of and the centrality he gives to class and class power, the inspectors' world views, and their enforcement procedure. The power of the inspectorate was utilized for the benefit of the working-classes. Health and safety was improved in the workplace due to their efforts. I most firmly believe that this legislation did benefit the working-class, but that "protection" should have been equally extended to both men and women. In other words, women both lost and gained from this Act. The conditions of their employment were improved, but at the cost to their equality. The Ontario Factories' Act of 1884 provides one concrete example of how unequal gender relations have been perpetuated in both the home and workplace.

Chapter 1

The Political Economy of Nineteenth Century Ontario I

What conditions in the political economy of nineteenth century Ontario produced the Factories' Act of 1884 which was both gender specific and for the first time aimed to protect workers' interests? That is, what historic, material, political, and ideological factors contributed to protective labour legislation for the working-class, both men and women? On a more substantive level, this chapter will consider the historical context of nineteenth century Ontario. Many factors contributed to the need for health and safety legislation. I will examine the rise of capitalism, the role of immigration, the material subsistence of the working-class family, health and safety hazards in the workplace, and the experience of women and paid labour.

The Rise of Industrialism in Ontario

There is general agreement that industrial capitalism developed in the second half of the nineteenth century in Canada. The creation of a sophisticated transportation network, tariff protections and settlement, and the evolution of a diversified manufacturing sector in central Canada are all important factors supporting this claim (Kealey and Palmer, 1986:37; Tucker, 1990:13). For example, between 1870 and 1890, industrial establishments increased by about 50 per cent, employment in manufacturing by 76 per cent, and the railways increased from 3,000 miles of track in 1873 to over 16,000 in 1896 (Kealey and Palmer, 1982:29). The railways opened larger markets for local producers,

and as farmers became more oriented towards cash crops, the market expanded for consumer goods such as agricultural implements, stoves, and textiles. At first this new industrial era was marked by free trade, but when the American market disappeared behind high tariff walls, Canadian businessmen developed a strategy of protection for the Canadian manufacturing sector. In 1879, this protection was officially demarcated by the "National Policy". This policy provided high-tariff protection for industry, railway building across the prairies, and the promotion of immigration (Heron and Storey, 1986:7).

Immigration helped to set in motion the wheels of industrial capitalism in nineteenth century Canada¹. Both an increase in immigration due to the Irish famine of the 1840s and the scarcity of cheap land, left new immigrants with little choice but to seek waged labour (Pentland as cited in Heron and Storey, 1986:8). In fact, immigrants, notably non-Anglo-Celtic newcomers, were often concentrated in the dirtiest, heaviest, worst-paid manual jobs (Heron and Storey, 1986:14). According to Pentland, immigrants shaped Canada's industrial structure in the nineteenth century. He contends that French, Americans, English, Scottish, and Irish made up almost the whole of Canada's labour force in the 1800s (Pentland, 1981:62-3). While Pentland documents immigration as the central force in the making of the Canadian working-classes, his work can be read as racist and ethnocentric (Abele and Stasiulis, 1989:258). According to Abele and Stasiulis, the "white settler colony"² theme recurrent in political economy renders invisible and

distorts the role of non-British and non-European migrants. Moreover, it plays down divisions within early British immigrants that helped to shape the Canadian labour market and its subsequent course of economic development (Abele and Stasiulis, 1989:259). Immigration and the National Policy then helped to propel industrial capitalism in nineteenth century Canada. Where was Ontario's role in these newly changing industrial relations?

Ontario stood at the centre of this capitalist development (Kealey and Palmer, 1982:29; 1986:37). It is important to note, however, that the transition to industrial capitalism in Ontario was a very uneven process. That is, as late as the 1880s, handicraft production still existed simultaneously with thoroughly mechanized processes. Although these very different systems co-existed, Ontario did witness a dramatic increase in its industrial sector. For example, both Toronto and Hamilton represented the large industrialized urban centres. They each accounted for 20 per cent of industrial employment in southern Ontario in 1881, although they contained only 6.5 per cent of the region's population. Finally, Toronto figured prominently in the clothing industry, wood products, publishing and printing, and the iron and steel sectors. Hamilton was perhaps Toronto's most significant rival in the manufacture of steel and iron products (Kealey and Palmer, 1982:28-37). Within the context of Ontario's industrial expansion and development, I will investigate the experience of the working-class family.

Working-Class Family

How did the working-class family manage to subsist and reproduce itself in the late nineteenth century? According to Ursel, reproduction may be defined "quite specifically as the production of human life which involves three processes: procreation, socialization and daily maintenance" (1986:150). Was the working-class household able to maintain and reproduce itself on a single male breadwinner wage?

According to Palmer, women and children figured prominently in waged labour between 1850 and 1880 (1983:82). For example, one in three workers in Ontario's three leading boot and shoe manufactures in 1871 was a woman, and one in seven was under sixteen years of age. The tobacco industry employed 371 men, 91 women, and 245 children in 1871. Moreover, in Hamilton's four sewing-machine factories, children comprised approximately one-third of the labour force in the early 1870s. In fact, by 1871, women and children represented a third of the industrial labour force in Toronto (Palmer, 1983:82). These figures did not significantly change in the 1880s. For the district of Toronto, Barber reports for 1888 that women comprised approximately 22 per cent of the industrial labour force (Inspector of Factories, 1889:13). Moreover, according to the Royal Commission in 1882, children accounted for 5 per cent of the industrial labour force, unmarried females 29 per cent, and married females only .7 per cent (Canada, Sessional Papers, 1882:10).

Not only did women and children figure prominently in waged

labour, but the fertility rates were also high amongst the working-classes. For example, in Hamilton between 1851 and 1871, fertility rates among the employer class decreased dramatically. During the same period, however, fertility rates increased for skilled workers, and even more so for the unskilled. These rates were symptomatic of the needs of the working classes (Katz as cited in Palmer, 1983:83). That is, children could and did assist in the material support of the working-class household.

Each member of the working-class family was needed and expected to contribute to the households' daily subsistence needs. The male breadwinner wage seems to be an illusion. Both the employment patterns and the fertility rates in Ontario suggest that the working-class household as a whole worked in order to reproduce themselves. According to Parr, men could not, and did not, support their families on the proceeds of a single waged job. Peter Stearns has called the male breadwinner wage a 'half-fiction', and Barrett and McIntosh have called it a myth. They are surely right that this concept does not serve as an accurate description of the way in which the working-class was supported and reproduced in nineteenth century Ontario (cited in Parr, 1990:241).

Health & Safety Hazards

Burned by benzine, one; by molten iron, three; cut by planers and shapers, eight; by saws, eleven; sandpapering machine, one; sticks thrown by machinery, six; carrier chain, one; grindstone burst, one; metal shears, four; presses, six; stamping machine, one; twister, one; jenny, one; loom, one; shuttle, one; hot press, one; slubbing frame, one; cleaning in motion, two; gears, two; calendar, one...Five persons were hurt while working about steam engines while in motion; two persons seriously injured while putting soap on a running belt, and the others in various ways, eight of which were from five elevators (two fatal). (Inspector of Factories, 1896:12).

Brown was exactly right when he discussed the 'butcher bill' of industrialization (Inspector of Factories, 1899:16). The rise of capitalism had profound implications for the health and safety of the working-classes: men, women, and children. Industrial accidents were indiscriminate of age or sex. Workers were maimed and killed, young and old alike. In fact, one employee testified that in some shops, an accident of some kind or other happened every day (RCRLC, 1888:262). In this section, I will discuss some of the health and safety hazards faced by the working-classes: new processes, a new organization of work, unsafe machinery, poor ventilation, and unsanitary conditions all characterized work in nineteenth century Ontario.

Ventilation and overcrowding proved a grave and constant problem in most places of employment. For example, one factory employed nearly two hundred females seated on each side of long tables so closely together that it was impossible for the air to circulate (Inspector of Factories, 1889:7). According to Barber, the chief impurities in the air consisted of carbonic acid and carbonic oxide (gases). The former was exhaled from the lungs and

both were produced by coal stoves, lighted candles, lamps and gas. These pungent fumes were hazardous to workers' health (Inspector of Factories, 1889:7). Similarly, Rocque inspected one "rag-picking room divided into two sections, in one of which some 20 or 25 females were employed and in the other some 5 or 6. The dust, stench, and foul air were such that it was impossible for any person, except those in the habit of working constantly therein, to remain in either of those rooms even a few minutes" (Inspector of Factories, 1891:24). Not only was the air foul in most establishments, but workrooms were either too warm or too cold (RCRLC, 1888:179). For example, one worker complained that moulding shops "are not protected in the winter time. Some of them are not fit for a man to strip in. Everything is damp, the sand is wet and cold, and everything a man touches is cold..." (RCRLC, 1888:687). On the other hand, Rocque observed one factory employing over a hundred workers, "where the heat was far above temperate, and the foul air was such that a person coming from outside could scarcely remain in the room more than twenty-five or thirty minutes" (Inspector of Factories, 1891:24). In other words, shops were often dingy, dark, dirty, dusty, overcrowded, filled with gas and smoke and either too warm or too cold (RCRLC, 1888:144, 179, 422; Inspector of Factories, 1889:19; 1889:5).

Unsanitary arrangements, unsafe buildings, and the lack of proper fire-escapes also characterized many factories in nineteenth century Ontario. The sanitary arrangements in many establishments were filthy and neglected (RCRLC, 1888:86, 91).

According to Mr. Freed, the washroom facilities were in a very bad state. He did "not know exactly the locality of the water closets, but [he] smelled a very bad smell when ... in the place" (RCRLC, 1888:45). Similarly, Dr. Wm. Oldright, a physician, describes the condition of some water closets:

The plan of making pits in the ground and allowing the contents to drain into the soil is a very bad one. The soil becomes saturated with filth and the wells become foul (RCRLC, 1888:91).

Often the contents of these pits saturate the soil and then contaminate the wells and drinking water.

Not only were sanitary conditions a problem, but many employees worked in unsafe buildings. Barber described "one case in Toronto of a new building where the floor beams had a clear stretch of about 28 feet without support, and having a machine weighing nearly 7 tons in the upper story. The floors were very much deflected, some of the joints cracked, and the employees in fear for their lives" (Inspector of Factories, 1889:9-10). Old and new buildings alike were often rickety and unsafe proving hazardous to employees working in them. Moreover, they often lacked proper fire escapes. For example:

Mary Cronin, a young woman was working in a mattress factory, on the third floor, when a pretty lively fire started in the grass used for filling, near the stairs. She thought she could not escape by the stairs, so went to the windows, expecting to be released by the ladders of the fire department, but when they came they had no ladder long enough to be of service. Some persons held a mattress and she jumped about 35 feet. She was rather severely burned about the upper part of the body...her physician says one arm is permanently injured (Inspector of Factories, 1899:10).

Due to a fire, and lack of proper exits, Mary Cronin was severely

burned and permanently injured. These examples illustrate that many establishments were unsanitary, unsafe, and hazardous to workers' health.

New processes, new machines, and a new organization of work all accompanied the advance of industrial capitalism and caused many injuries to life and limb. New processes such as high pressure boilers and engines often resulted in serious injury and death (RCRLC, 1888:207, 257). For example, one boiler exploded at Vale's sawmills, killing the engineer and three of his children, who had come to the mill to walk home with him (Inspector of Factories, 1895:14). In fact, Brown stated that "the loss of life by boiler explosions which have occurred during the year emphasizes the necessity of some action being taken to at least endeavour to reduce the number of accidents from that cause" (Inspector of Factories, 1893:15).

Many grisly industrial accidents maimed and killed workers. For example:

A bar of red hot iron coming through the rolls caught Samuel Huntley in the back of the leg behind the knee; eight or ten feet passed through the flesh of the leg, when he caught the hot iron in his hands, but at once became insensible, fell down and died in ten or fifteen minutes after" (Inspector of Factories, 1898:7).

Impaled by a hot iron in the back of his leg, Samuel Huntley died a painful and excruciating death. Many industrial accidents occurred due to unsafe and unguarded machinery. A young boy had his foot taken off from an unprotected gear on a feeding press (RCRLC, 1888:38). Similarly, an elevator without safety catches crushed the workman standing underneath (Inspector of Factories,

1889:30). In fact, Rocque recounts a number of workers maimed in his district:

...one occurred in the Toronto Paper Mill. Co., at Cornwall, where a man employed at a knotting saw had three fingers cut off; one at Rosamond Woolen Co. mill, in Almonte, where a young girl had her hand crushed in a carding machine; one in the Stormont Cotton Factory, where one person lost two fingers; one in the Almonte Knitting Co., where an employe (sic) got entangled around a shaft whilst putting a belt on a pulley, and had his arm pulled off (Inspector of Factories, 1890:27).

A man lost three fingers, a young girl had her hand crushed, one person lost two fingers, and another worker got his arm pulled off. Industrial accidents were indiscriminate of sex or age. Men, women, and children lost life and limb due to dangerous and unguarded machinery.

When accidents occurred, there was often no system of warning to shut down operations. Inspector Barber reports:

I would like to see manufacturers more generally provide in their works some more speedy means of stopping their main shafting, in case of such accidents as where the injured person cannot be released from his position until the moving power is stopped, when in most cases it is too late to prevent most serious injury, and in others to save life; as in the case of the young man killed in a flouring mill in Norwich, last August. The boy who was with the one injured, in order to stop the machinery, had to run from the third story of the mill to the engine room, blow the whistle for the engineer (who was out of the room) to come and stop the engine, and in the meantime the cogs were grinding away at the flesh and bones of the unfortunate young man's shoulder (Inspector of Factories, 1890:13).

The cogs were grinding away at the flesh of this young man's shoulder while his co-worker ran to alert the engineer. A proper system of warning and a faster method of stopping machine operations would save lives and possibly decrease the serious

nature of injuries.

Upon examining health and safety legislation in late nineteenth century Ontario, it is fundamental to investigate the hazards faced by workers in their everyday jobs. Poor ventilation, overcrowding, unsanitary arrangements, unsafe buildings, lack of proper fire-escapes, new processes, new machines, and a new organization of work are only some of the health and safety hazards faced by the working-class in nineteenth century Ontario. At this point, we can only question if the working-class, men and women, fought for protection from the horrors they faced in their everyday lives on the job.

Women and Paid Labour

The successful development of industrial capitalism required a cheap army of labour to staff the newly rising industrial establishments. And the historical evidence in Ontario indicates that every member of the working-class family formed this new class of industrial workers. The Ontario Factories Act of 1884, however, targeted women for special protection. This necessitates an inquiry into their conditions of work in late nineteenth century Ontario. What were the specific conditions of women's paid employment and why were they deemed in need of special protection? In what types of industries and jobs were women concentrated? What were their wages, and how did they compare to men? And, did both single and married women work for wages?

Before attempting an answer to these questions, it is important to note that there existed historical variation among

women's experience in the province of Ontario. Most women working for wages in late nineteenth century Ontario were single³ (Canada, Sessional Papers, 1882:4; Scott, 1892:25; Cohen, 1988:119; Tucker, 1990:33, Glasbeek, 1992:15). In fact, writing in the late nineteenth century, Scott notes that the employment of married women in factories and stores in Ontario was unusual. In most places of employment there were virtually no married women and only one or two widows (Scott, 1892:25). The employment of women was usually temporary. That is, once married, most left waged labour to take up unpaid domestic duties in the home. Married women usually only returned to the sphere of paid employment upon death or disablement of their husbands (Tucker, 1990:33). Overall, in reviewing the historical evidence in Ontario, I believe it is fair to say that most married women did not work in the paid labour force, but there were some exceptions.

Whether married, single, or widowed, where did women work for wages in the nineteenth century? In 1840, there were only certain occupations open to women, such as teaching, needlework, book-binding and household services (Scott, 1892:3). However, data from the census of Canada indicates that these employments expanded to include textiles, garment making, and food processing (Tucker, 1990:33). In fact, the 1871 census was the first in which industrial workers were listed by sex, and at this time women accounted for less than 13 per cent of Ontario's industrial labour force. By 1891 this figure had increased to over 21 per cent⁴. While the changes in the proportion of females employed in

industrial establishments give some indication of the increased importance of female labour in this area, they do not indicate the full extent that women were involved in the labour force. Not only were women employed extensively in mills and factories but also in private houses, and obscure workshops (Canada, Sessional Papers, 1882:4)⁵. Moreover, a large proportion of females worked as dressmakers and milliners in their own homes and were not included in the industrial count (Cohen, 1988:140). Homeworking was an important source of income for women. Finally, although industrial and manufacturing sectors were important employers of women, domestic service was the single most important occupation for females throughout nineteenth century Ontario (Cohen, 1989:136-40).

Domestic Service

We can not discuss women and work in late nineteenth century Ontario without examining domestic service. In 1891, domestic servants accounted for approximately 40 per cent of the female workforce, and were the largest single group of female workers in Ontario (Leslie, 1974:95; Barber, 1980:150). Moreover, many domestic servants were immigrant women actively recruited to Ontario by the federal and provincial government and volunteer associations of middle and upper class women (Barber, 1980:148; Barber, 1986:57; Barber, 1991:9-10). According to Barber, "domestics were the only unaccompanied female immigrants so solicited and they were treated as preferred immigrants along with farm families and single male farm labourers" (1980:148). The number of women who came specifically to the province of Ontario

can not be accurately tabulated. However, between 1867 and 1930, over 250,000 women immigrated to Canada stating domestic service as their intended occupation. Barber contends that "domestic service played a vital role in enabling single women to immigrate to Ontario and to begin life in a new country" (1980:148).

Barber discusses the "servant girl problem" or the chronic shortage of female domestic help in Ontario in the late nineteenth century. The demand for female domestics, as a symbol of status or essential assistance, continuously exceeded the supply in Ontario throughout the period from 1870 to 1930 (1980:150). This servant girl problem existed because women in Canada shunned domestic service whenever possible. Objections centred on the lack of freedom, isolation, and the low status of the job. Canadian women preferred factory or shop work because it offered greater freedom and independence: they had their evenings to themselves, were not under the direct supervision of their employer 24 hours a day, and they had more opportunities to make contact with their own peer groups (Barber, 1980:148-150).

Since Canadian women did not enter domestic service in sufficient numbers, both employers and the government turned to immigration to find the solution to this servant girl problem. In fact, domestics were actively recruited. Both the Ontario and federal governments worked to promote the immigration of domestic servants. In its recruitment efforts, the Ontario government focused on the British Isles, as British domestics were preferred. The government offered special low fares and Ontario gave its own

additional bonus to domestics to entice them to make Ontario their destination (Barber, 1980:152-154). By 1911, over one-third of domestic servants in Ontario and three-quarters of those in Western Canada were immigrants. For all of Canada, three-quarters came from the British Isles: 60 per cent from England, 29 per cent from Scotland, and 10 per cent from Ireland. Moreover, as the immigration movement included more immigrants from Continental Europe, non-English speaking women also took up domestic work, especially in Western Canada. For example, Icelanders in the 1870s and 1880s and some Swedish, Norwegian and Danish women immigrated as domestic servants before the war. But the largest number of non-English speaking domestics came from Ukrainian, Polish, Hungarian, Roumanian, and Russian origins. This active recruitment of immigrant domestics did not include West Indian or Asian women. The racism characteristic of the period made women of colour unacceptable to the Canadian government, although not to employers (Barber, 1991:8-14).

The manufacturing and industrial sectors, homeworking, and domestic service seemed to be the main areas to employ women in nineteenth century Ontario. I believe it is important, however, to distinguish between homeworking and domestic servants on one hand, and female industrial workers on the other. Homeworking and domestic service were the largest employment locations for women into the twentieth century. Moreover, they often employed immigrant women who had little choice of occupation (Leslie, 1974:95; Johnson and Johnson, 1982:41). And these workers were not

protected by unions or factory legislation. The Ontario Factories Act of 1884 was inapplicable to both homeworkers and domestics (Leslie, 1974:113; Cohen, 1988:134). On the other hand, while both industry and manufacturing expanded to include women, they were concentrated in job segregated markets, only somewhat protected by the terms and conditions of factory legislation, and paid substantially lower wages than their male counterparts.

Female Factory Wages

Evidence from both the Ontario Bureau of Industries and the Labour Gazette indicate that throughout the period of industrialization it was nearly impossible for a female factory worker to make a living wage. In an 1884 study of nineteen Ontario cities, the income generated from both women and children amounted to 2.3 per cent of the total family earnings (Cohen, 1988:128). This small percentage of income generated by women and children suggests that they could not subsist on their wages alone and thus did not earn a living wage. Moreover, in 1889, women over sixteen years of age without dependents earned a total of \$216.71 per year, whereas their total cost of living for the year was \$214.28. This translates into a surplus of exactly \$2.43 for the year. Moreover, women over sixteen years of age with dependents earned a total of \$285.90 per year, whereas their total cost of living for the same year was \$300.13. This translates into a deficit of \$14.23 and clearly reveals that they did not earn sufficient means for survival (Ursel, 1986:169). Often low wages were justified because these young women still lived with their parents. But were women's

wages significantly lower than men?

On one hand, it is difficult to compare male and female wages since men and women often performed different tasks in the workplace (RCRLC, 1888:962)⁶. Sometimes women earned the same or higher wages than men. For example, August Eichorm, a Merchant and Manufacturer of Cigars in Toronto, was questioned:

Q: Do you employ any females?

A: Yes.

Q: Do you consider their work is equal to that of men?

A: We pay them the same wages.

Q: The class of goods they manufacture is as good as made by men?

A: Every bit (RCRLC, 1888:305).

According to Eichorm, women's work was "every bit" as good as men's. Consequently, they were paid the same wages. Moreover, Sherman R. Miller, a Seed Merchant from Detroit, preferred women and paid them higher wages than his male employees (RCRLC, 1888:435). These examples, however, seem to be unusual and exceptional cases.

Even when they performed the same tasks, most women were paid substantially lower wages than men (Kealey, 1974:8). According to Richard Wilkins, a Dry-goods salesman:

...employers can get two or three girls for the price of one man. I know of an instance where the father was discharged on account of the dulness (sic) of trade. He had two daughters behind the counter. He was thrown out on account of the times, but they were retained at lower salaries (RCRLC, 1888:350).

Women were obviously paid significantly less than men if employers could retain "two or three girls for the price of one man". Whether it be in sales, the tobacco industry, iron and tin, or even

textiles, women were cheaper to employ. For example, in the rolling department of Mr. Tuckett's Tobacco factory in Hamilton, skilled hands earned \$12 to \$15 per week, unskilled \$10 to \$11, and women \$2.50 to \$5 per week (RCRLC, 1888:809-810). In the iron and tin industry, women averaged \$3 to \$5 per week compared to \$9 for men (RCRLC, 1888:613). And in the Kingston Cotton Company, men's wages ranged from \$7.29 to \$20.00 per week compared to women who earned \$5.70 (RCRLC, 1888:971).

In late nineteenth century Ontario, most working women were domestics or homeworkers, single, isolated, and immigrants, unprotected by the terms and conditions of factory legislation. Those women who did work in industrial or manufacturing sectors were concentrated in segregated job markets, such as textiles, canneries etc..., and paid very low wages. Overall, women occupied a disadvantaged position in the labour market. It was specifically the conditions of female factory employment, however, that caused much controversy.

It is important to examine the political economy of nineteenth century Ontario and the conditions which provoked the need for health and safety legislation for the working-class, both men and women. Many factors contributed to the formation of legal protection: the experience of women and paid labour, health hazards in the workplace, the material subsistence of the working-class family, the role of immigration, and Ontario's role in the newly rising industrial relations. While this chapter has focused on the historical context of nineteenth century Ontario, chapter two will

consider a higher level of abstraction. That is, how did the theories of gender, class and class conflict, and the state contribute to the formation of health and safety legislation for the working-class, and special protection for women?

1. See Canadian Agricultural Statistical Year-Book of Canada "Immigration", 1886(8), for an account of the number of immigrants who arrived in Canada during the 1880s with the intention of settling.
2. See, for example, "Canada as a "White Settler Colony": What about Natives and Immigrants", Abele and Stasiulis (1989).
3. Statistics on the marital status of the working population are not available in the published census data until 1921. However, by this date 50% of single women, 20% of widows, and only 2% of married women worked for wages in the labour force (Cohen, 1988:119).
4. See Appendix I for a list of female industrial occupations in nineteenth century Ontario.
5. These workshops were difficult to locate, sometimes existing in the attic or basements of large buildings. The wholesale clothing establishments employed one hundred to one thousand women in this way (Canada, Sessional Papers, 1882:4).
6. For example, Ceta Ramkhalwansingh compares the wages of men and women in textile plants in the early 1900s in Canada. In Toronto in 1914, a building labourer earned \$13.20 per week, an electrical worker \$17.60, and a bricklayer \$24.20. These occupations were largely closed to women. In the textile factories, the most a woman could hope to earn was \$9.95 per week (cited in Connolly, 1978:28).

Chapter 2

The Political Economy of Nineteenth Century Ontario II

In chapter one, we explored the historical context of nineteenth century Ontario to determine what substantive factors contributed to the rise of protective legislation for the working-class. Now in chapter two, we will examine the political economy of nineteenth century Ontario on a more abstract and theoretical level; that is, we will peruse the complexities of gender, class, and the state and how they reinforced the need for legal protection. In the following discussion, we must pay close attention to the shifting alliances and interplay between gender, class and the state. Gender and class must be viewed as a single dynamic system; that is, actors were simultaneously influenced by both their class positions and their gender. Working-class men, working-class women, employer women, and employer men all had something to say about the need for protection in the workplace. What did each group want and who had the power to make their ideas a reality? This last question brings in the legitimate use of authority or the role of the state. How were class and gender articulated in the form of state intervention with respect to protective legislation?

The Complexities of Gender and Class

In understanding the rise of protective legislation and the complexities of gender and class we need to understand them as a unitary system. That is, the systems of capitalism and male dominance "are intertwined so inextricably that they are inseparable" (Jaggar, 1983:124). As Iris Young charges:

We need not merely a synthesis of feminism with traditional Marxism, but a thoroughly feminist historical materialism, which regards the social relations of a particular historical social formation as one system in which gender differentiation is a core attribute (quoted in Jaggar, 1983:161).

We need to understand the social relations within capitalist society as a combination of both class and gender. We need to understand men and women as actors influenced by both their class position and their "male experience" or "female experience". To build a 'single process theory' we need to present capitalist class relations as central to gender relations and gender relations as central to class (Glasbeek, 1992:17).

Gender Politics and Protective Legislation

Before we examine the gender debates in the nineteenth century surrounding protective legislation, it is important to define patriarchy. Ursel specifically outlines three different types of patriarchy which correspond to different historical contexts. Communal patriarchy refers to pre-class, kin-based social systems; family patriarchy refers to class-structured social systems characterized by decentralized processes of production; and social patriarchy refers to advanced labour systems (Ursel, 1986:154).

Late nineteenth century Ontario represents the transition from familial to public patriarchy. Ursel defines familial patriarchy as "the hierarchical sexual organization for the reproduction of sex-gender identities and relations as it exists in the family; in contrast, social patriarchy is the societal organization of sex-gender relations through rules and laws concerning marriage, property, inheritance, and child custody" (Ursel, 1986:154). Patriarchy constitutes the domination of women by men in both the private sphere of the family and in the official public sphere of legislation and paid labour. I believe it is important to recognize, however, that public and familial patriarchy co-exist. The rise of public patriarchy does not mean the elimination of familial patriarchy (Keil, 1993). In fact, "protective" legislation for women in late nineteenth century Ontario represents social patriarchy and its ability to regulate women in the public sphere of work. As a separate gender, how were men threatened by working women and what would they gain from sex-specific legislation?

Nineteenth century working-class women threatened men's traditional skilled trades and wages. Women were a cheap source of labour and working-class men believed that they were lowering wages overall (Tucker, 1990:125). Moreover, technical innovations which increased worker output and usually reduced the skill of workers were accompanied by the use of female labour. In short, many employers used women to break up traditional craft skills (Tucker, 1990:79). Finally, women not only lowered wages overall but posed

a threat of job competition for men. According to Tucker, employing restrictions on women and children's employment by way of labour legislation makes their labour less attractive, and thereby preserves a privileged position for men in the labour market (1990:123). If working-class men were threatened by women in the labour market, what gender politics were used to justify protective legislation for women in nineteenth century Ontario?

The gender politics in the nineteenth century dictated a private separate sphere for women. That is,

Victorian ideology defined women as inferior to men, fragile, emotional, and in need of protection. This ideology was as prevalent in Canada as an import as it was in Britain. The ideal of womanhood combined a complete commitment to domesticity. A woman's primary role, her natural contribution was as wife and mother (Alyward, 1983:55).

This middle class ideal dictated that women were to be pure and pious and devote themselves to their "natural" reproductive role as mother. Women's primary role was as wife and mother in the private domestic sphere of the home. They were defined as a "helpless class" in need of protection (RCRLC, 1888:167, 1167)¹. It was widely believed that women were physically and morally vulnerable.

This in fact provided the basis for defining a separate and restricted sphere for women. The natural sphere was the home and family. Once women entered the public sphere of waged labour, numerous dangers lurked and special precautions were needed to ensure their protection (Tucker, 1990:84).

There was a general fear of the moral decline of women in the public sphere of work. That is, the "mingling of the sexes outside

the home generated fears about the moral health and future of the Victorian social order" (Tucker, 1990:122). For example, with respect to female labour, one witness stated:

It is necessary to provide means for the protection of morals in the factories, and outside of them, before entering and after going out. It also happens that employers make an abuse of their authority, and the law ought to be severe (RCRLC, 1888:368).

Women's "morals" had to be protected before entering the factory, while working in the factory, and upon leaving the factory.

These moral concerns tended to focus on the intermingling of the sexes, abusive language, and the importance of separate sanitary facilities (RCRLC, 1888; Ursel, 1986:163). For example, in the 1888 RCRLC, questions were continually focused on the issue of separate washroom facilities for male and female employees. For example, Alexander G. Watson, secretary of the Canada Cotton Manufacturing Company, in Cornwall, is questioned:

Q: Are you able to tell us whether the closets for the men and women are separate in your factory?

....

A: Well, there is one entrance; But the one is marked "females" and the other "males" entrance. They are both marked.

....

Q: Would you be surprised to hear that there are holes made in the partition, so that the males can look in upon the females?

A: I know that they are lined with tin.

Q: And that even then a number of holes were cut through with knives?

A: I heard of that.

....

Q: Have you ever heard that men climb up the partition and look over at the women?

A: No; I have been there very little.

Q: Well, I have been no time in the town and I have found out. Do you know if men throw bobbins over at the women?
 A: No.

Q: Do you not think, in the interests of morality, that it would be better if these closets were separated, and that the closets for males were placed a respectable distance from those of the females, so as to prevent the possibility of any young women being indecently annoyed in this manner?

A: I suppose it would (RCRLC, 1888:1064).

Women's morals were compromised by men throwing bobbins over the partitions of the washroom facilities and peeking in on them. "In the interests of morality" washroom facilities should be completely separated and placed at a "respectable distance". The issue of separate washroom facilities illustrates the fears of the rampant moral decline in society. In fact, Tucker takes this one step further and states that "restrictions on women's employment may have been imposed in order to control their sexuality and procreative activity" (1990:35). In any case, these descriptions somewhat indicate the harassment women confronted in the workplace.

Not only were women seen as 'morally vulnerable' but they were also constructed as the physically weaker sex, in need of protection. Between 1884 and 1913, in Canada, there were twenty-one federal royal commissions concerned with labour and industrial disputes. One common theme throughout these inquiries was a need to regulate and restrict women in the workplace. The commissioners expressed a special concern that women's reproductive health made them physically vulnerable. As one commission noted:

Medical testimony proves conclusively that girls when approaching womanhood cannot be employed at severe or long-continued work without serious danger to their health, and the evil effects may follow them through-

out their lives (cited in Ursel, 1986:163).

According to this federal commission, "girls" and not "boys" were considered to be physically vulnerable within the workplace. Similarly, it was a widely held belief that standing for long periods of time did damage to women's reproductive organs (RCRLC, 1888:359). For example, Wm. Oldright, a physician is questioned:

- Q: With respect to female labor (sic) in factories and business establishments, what have you to say? Do they get proper treatment; are they under any disability or is there anything to prevent them remaining in health?
- A: I think in stores there is a great deal of trouble in that way ... young women are obliged to stand from morning to night when there is really no necessity. They should be allowed to sit down ... A great deal of trouble to the abdominal organs arises in this way; they are made sick by it (RCRLC, 1888:93).

According to this doctor, young women "are made sick" by standing for extended periods of time. In fact, "trouble to the abdominal organs" suggests that women's reproductive health would subsequently deteriorate.

Physical vulnerability, the moral decline of society, the proper sphere of women, and job competition all informed the gender debates surrounding protection for working-class women in the nineteenth century. Gender did have an impact on the politics of factory legislation in nineteenth century Ontario. Women were blatantly constructed as morally and physically inferior to men and deemed in need of official protection. Both gender and class informed the debates surrounding the notion of protection in the nineteenth century.

Class and Class Conflict

How did the concept of class and class conflict influence the Ontario Factories Act of 1884? Is class a relationship of individuals with capital through the "wage nexus", or is it something more complex? (Sacks, 1989:541). According to Johnson, the class positions of women in nineteenth century Ontario were defined by those of their husbands or fathers. Women did occasionally cross class lines through marriage or from the movement of male relations, husband or father. But overall, while class relations among men were structured economically, class relations among women were structured socially (1974:14). That is, women's class positions were determined by male economic relations, husband, or father. And often women of the employer class are referred to as middle class women in the literature.

Class positions were very much in a state of flux in nineteenth century Ontario. According to Johnson, the forms and social relations of production in Ontario in the nineteenth century underwent three quite distinct phases: toiler society (pre-1850s), independent commodity production (1850-1880), and industrial capitalism (last quarter of the nineteenth century). And each of these phases had direct implications for class relations in Ontario. First, the classes characteristic of toiler society were the toiler farmers, the aristocrats and bureaucrats, the servant class, and small capitalists of all sorts². The early aristocrats of Canada owed their origins to hereditary ties in the British landed aristocracy. High positions in Canada were obtained by

appealing to kinship ties in England. Moreover, they derived their power from the possession of land and the legal and social capacity to pass it on to future generations. It will suffice to say that the toiler farmers, bureaucrats, and small capitalists were economically dependent on the aristocracy (Johnson, 1974:14-17).

The second stage, or independent commodity producer society, was marked by the fall of the Canadian aristocratic class and the emergence of a truly Canadian capitalist class. This period witnessed a rise in the economic status of the agriculturalist class³ and the creation and subsequent divisions of a proletarian working class. By 1850, both a growing scarcity of cheap land and a flood of immigrant Irish paupers created significant numbers of labourers in Quebec, Montreal, Kingston, Toronto, and Hamilton. Amongst these working classes remained strict divisions between the unskilled manual labourers and the highly skilled journeymen and mechanics. Finally, the last quarter of the nineteenth century represented the phase of industrial capitalism. The ranks of unskilled labour swelled to include Blacks, Chinese, Irish, and immigrants of all sorts, and women and children as a cheap source of labour. The factory system represented a direct attack on the highly skilled crafts worker in the form of machine power and cheap labour (Johnson, 1974:22-8).

Unskilled labourers, skilled craftsmen, agriculturists, petty commodity producers, domestics, and capitalists of all sorts, characterized the changing nature of classes prevalent in late nineteenth century Ontario. In fact, the 1880s witnessed a

ferocious struggle between the manufacturing class and labour with respect to both conditions of work and the role of the state in mandating legislative protection. According to Langdon, these two interests - organized labour and organized manufacturers - grew up side by side and reinforced each other in pressuring the government to support their interests over those of the other. And the most significant consequence of the working-class movement in the 1870s was the effect it had on employers, 'stimulating' the 'class-conscious cohesion' that was necessary for them to consolidate the position of industrial capitalism in both the state and civil society (cited in Craven, 1980:173). Within this context, I will examine the individual perceptions and attitudes of the working and employer classes including variations within each group towards gender specific protective legislation⁴. Moreover, I will investigate the clash of interests between organized manufacturers and organized labour with respect to state intervention in the form of protective legislation.⁵

In a study of Britain in the nineteenth century, Humphries argues that a unified working class - men and women - lobbied for labour legislation for their own benefit and protection (1981:1). She specifically analyses the 1842 Mines Regulation Act which inaugurated sex-specific protective legislation (1981:28). She argues that the working-class household united working men and women around common interests, such as a male family wage and protective legislation for women and children (1981:4). In short, Humphries argues that the working-class family had a material

interest in the family structure, a male breadwinner wage, and protective legislation. Men and women united to provide a better life for their families. There is some merit to Humphries' argument with respect to the working-class and protective labour legislation in late nineteenth century Ontario.

Labour has had a long history of interacting with the Canadian state and agitating for social reform. While there were many conflicts and divisions amongst the working-class, between 1879 and 1886, trade unionists and the Knights of Labour developed a united front in demanding and lobbying the government for ameliorative legislation from the worst abuses arising from the industrial order⁶. The more pressing reforms sought varied little throughout the decade. They demanded a shorter working day, equal pay for both sexes, an employers' liability act, a compulsory education act, indentured apprenticeship legislation, the creation of boards of arbitration, a bureaux of labour statistics, and the prohibition of piece work and Chinese, prison, and reformatory labour. Moreover, during the 1886-87 elections, the most persistent and vocal efforts focused upon the demand for a comprehensive and strictly enforced factory act and an end to Chinese and assisted immigration (Ostry, 1961:142-43; Kealey and Palmer, 1986:65).

These demands engendered a class response from both employers and the state. While employers entered into open warfare with their workers, the state responded in a more conciliatory fashion. Mowat, and to a lesser degree, Macdonald, interceded to provide workers with many of the protections they demanded: the

decriminalization of trade union membership, factory acts, a bureaux of labour statistics, arbitration measures, suffrage extension, employers' liability acts, and improved mechanics' lien acts (Ostry, 1961:145,162; Craven, 1980:167; Kealey, 1980: 294; Heron and Storey, 1986:11; Kealey and Palmer, 1986:65).

The labour movement interacted with the state to provide some form of legislative protection for the entire working class - men and women- against the onslaught of industrial capitalism; this in turn, engendered a response from organized manufacturers. Organized manufacturing interests were best represented by the Canadian Manufacturers Association⁷. The CMA developed lobbying techniques in response to the increased strength and organization of labour in the 1880s. Economic expansion strengthened labour which repeatedly advanced claims upon the state which were perceived as damaging to the manufacturing industries. In fact, in the late nineteenth century, labour organizations had secured factory Acts in Ontario, Quebec, Manitoba, and Nova Scotia, the creation of a federal Department of Labour and a Dominion law against the importation of labour under contract. According to the Parliamentary Committee of the Manufacturers' Association:

Never in the history of Canada have labour unions shown so much activity; never have they been so well organized, and never has that organization made such determined, and in many cases unreasonable, efforts to wrest from the employer his inherent rights, to control the policy of his business and manage it as he thinks best (quoted in Clark, 1939:27).

This committee charged that labour unions pose a significant threat on the legislative front with respect to manufacturing interests

and their right to manage their businesses as they see fit.

The Canadian Manufacturers' Association, consequently, focused their energy on a number of key issues. For example, international unionism and management's rights recurred frequently in their musings of the labour question (Craven, 1980:124). Moreover, while they did not often engage themselves in the day to day workplace struggles, they fought any legislative reforms in the favour of labour. The CMA's Parliamentary Committee kept a careful watch on dominion and provincial legislatures, and were always quick to intervene against trade-union attempts at social legislation. In fact, they argued that "in many of the provinces the manufacturers are feeling the effects of legislation which slipped through without any opposition on their part" (Clark, 1939:31). According to the CMA, legislation in favour of the unions was 'class legislation' which hampered national prosperity (Craven, 1980:129).

There is some merit to Humphries' argument with respect to Ontario. The labour movement did interact with the state for some form of legal protection to improve working conditions and working-class life, for both men and women. Not only did they realize some of their goals but their struggles were met with a fight from the business class. There is little doubt that the working class lobbied the government for protection in the workplace, however, there does not exist sufficient evidence that working-class men fought for sex-specific protection. In fact, as we will see in the next section, their attitudes towards women and work were ambivalent. Moreover, Humphries' argument of sex-specific

legislation and a male breadwinner wage does not speak to the experience of working-class women in Ontario. Most women who worked for wages were single and not married. Moreover, her argument relegates women to the private sphere of the family and thus forces economic dependency on women and severe poverty for single women (Alyward, 1983:31). Third, it is unrealistic to assume that men and women within the working class would unite around such a "common" cause. That is, would working-class women actually "throw in their lot with the labour movement when history has shown how thoroughly male its preoccupations can be?" (Phillips, 1987:9) Humphries' argument does not accurately account for a working-class "male experience" versus a "female experience". That is, the very potential for an alliance based on class may very well be disrupted by gender conflicts. Consequently, in examining both the working and employer classes, we must remember that they are not homogeneous or unified groups.

How did capitalist men perceive protective legislation as both classed and gendered subjects? An article by the Toronto News on January 2, 1884 suggests that they were not pleased with the idea of protection. It reads:

The fact is, the Government did not dare to offend their friends, the manufacturers, by pressing this legislation, and were glad to catch at any excuse, no matter how trivial for postponing it...Mr Mowat will not do a better thing than to take them at their word, pass a stringent factory law, and let the Dominion government veto it if they dare (quoted in Tucker, 1990:98).

Factory legislation might "offend" the manufacturing class. This editorial suggests that these employers were not happy with the new

laws. In fact, according to Tucker, manufacturers were concerned that provincial legislation would put them at a serious disadvantage with their competition in other provinces without factory legislation (1990:103). Male employers were only concerned with the profitability of female labour and noticeably absent was any hint of moral concern or interest⁸ (Trofimenkoff, 1992:198). How did individual employers react to protective legislation?

In Paris, Ontario, John Penman reacted to these protective measures by creating and maintaining a cloak of respectability surrounding his business. In fact, reporters spoke of the safety and cleanliness of his mill and likened the machinery to domestic furnishings. Moreover, Penman financed a night-school, the Young Men and Young Womens' Christian Association, the central public school, subsidized university students and the work of community nurses (Parr, 1990:36-7). While Penman created an aura of respectability in the town of Paris in the late nineteenth century, other manufacturers favoured the creation of administrative arrangements which would limit the power of the inspectors (Tucker, 1990:138). For example, in the Ottawa area, witnesses testified that by May of 1888 no inspector had visited their factories. Moreover, in the Trades and Labour Congress of Canada convention held in September 1888:

It was charged that some of the inspectors were on too friendly terms with the manufacturers to be in a position to condemn them when they were discovered breaking the law...From experience many members could not call to memory one instance where an inspector had passed through a factory without being 'in tow' of the foreman or proprietor, who were always previously acquainted of the intended visit and consequently an employee was unable to make any grievance known where such existed without placing his or her situation in jeopardy (quoted in Tucker, 1990:146).

These inspectors were on friendly terms with the manufacturers and were almost always accompanied by them on tours of their factories. Employees were not in a position to voice health and safety concerns. This suggests the very administrative tactics used by employers to limit inspection and enforcement of the Ontario Factories Act of 1884.

Overall, I contend that the employer class of men were ambivalent towards protective legislation. Some manufacturers, such as Penman, went to great lengths to secure the health, safety, and comfort of their employees. On the other hand, other employers were only concerned with competition from other provinces and used administrative tactics to limit the inspector's power. How did the employer class of women react to these protective measures?

Women of the employer class' had specific interests in the formation of protective legislation. Their concerns with women and work arose both from their class experience and their experience as women. Just because they may have occupied the same class position as their husbands does not mean that they maintained the same social perceptions. According to Phillips:

We live in a class society that is also structured by gender, which means that men and women experience class in different ways, and that potential unities of class are disrupted by conflicts of gender....women experience their womanhood in different ways, and that their unity as women is continually disrupted by conflicts of class (1987:12).

Women may experience their class position differently from men. We may say that they have had a "female experience" of their capitalist position as compared to a "male experience". We can even take this one step further. Some women may experience their gender differently from that of other women and align themselves more closely with men who occupy the same class position. As a result, their attitudes towards working women may differ dramatically from both the men who occupy the same class position and those very working-class women toiling in Ontario's early mills and factories. How did middle class of women both perceive and respond to working-class women in nineteenth century Ontario?

Most middle-class women in late nineteenth century Ontario adhered to the ideologies of maternal feminism¹⁰. In fact, this movement was upper class in its origins (Roberts, 1979:27). Maternal feminism was characterized by both the notions of a woman's place and social reform. While women renounced the "frivolity, passivity, subordination and privatized familial role prescribed for them", they extended the realms of their motherly functions (Roberts, 1979:18-19). Most shared the Victorian belief that the family was the basis of society and that one of the most effective ways to promote a sound society was to promote a "pure and holy family life". In fact, religion and the religious

movements of the day played a fundamental role in their perceptions towards women's proper place and role in society. They believed that women were the guardians of the human race and society would only be safeguarded by actively virtuous women (B. Roberts, 1979:188; W. Roberts, 1979:31; Stansell, 1986:xii). Consequently, they aimed their reform efforts at working women who compromised the family or the very foundation of society.

Working women were relegated into either acceptable or unacceptable female occupations. On one hand, domestic service was considered an extension of maternal duties and deemed acceptable. For example, middle-class women's organizations aimed their energy at assisting female domestics to immigrate from Britain. On the other hand, the employment of women, especially married women, in mills, shops, and factories "was considered shocking, and the conditions under which they worked a degradation to their feminine nature" (Phillips, 1987:36). As a result, organizations such as the Women's Christian Temperance Union and The National Council of Women of Canada were key political actors in organizing and lobbying the government for reform. The National Council of Women was an organization primarily concerned with the promotion of protective legislation. Their main concern was the working woman as a future mother, whose reproductive health was at risk. For example, they advocated seats for shop girls because "extended periods of standing up were thought to be harmful to the reproductive organs" (Klein and Roberts, 1974:214). Moreover, they were "obsessed with separate lavatories in the maintenance of

purity, modesty, and other necessary qualities of wifely and motherly virtue" (1974:215). These middle class women purportedly supported the interests of the working girl, but I believe they had specific interests in their reform efforts.

I believe middle class women had specific interests in the formation of protective legislation. Women working in the industrial sector challenged their roles, feminine ideals and position in the family¹¹. As a result, middle class of women aimed their political efforts in defence and maintenance of domesticity and femininity. And second, I believe these women had specific material interests in these protective labour laws. For example, middle-class women were obsessed with working women's reproductive health. Perhaps they were concerned with the maintenance of a healthy labour force (Maclean, 1899-1900:180). In any case, the evidence indicates that women of the employer class actively supported protective legislation for those working-class women who fell beyond the realms of acceptable work and maternal responsibility. How did the working class both perceive and respond to protective legislation?

Working-class men seemed to have an ambiguous attitude towards working women, and this is evident from both their trade union organizations and testimony before the Royal Commission in the 1880s (Trofimenkoff, 1992:196). Some working-class men advocated women's rights and admitted women to their organizations, whereas others did not. It is virtually impossible to make a "blanket" statement about the policies and attitudes of all working-class men

in nineteenth century Ontario.

Working-class men testifying before the Royal Commission in the 1880s gave a variety of opinions concerning women and work. For example, one cigar worker admitted that women could do the same work as well as men and therefore should be paid the same wages; whereas, in printing and tailoring, working-class men believed that women did inferior work and received lower wages as a result. Still other men, working in dry goods shops realized that the lower wages paid to women provided a source of job competition. Finally, some of these men directly supported protection for women. They believed that young girls should be protected from profanity or the "immoral words" in factories and should leave their employment at different times from men. All of these testimonies reveal a decidedly ambivalent attitude towards women and work in nineteenth century Ontario (Trofimenkoff, 1992:196-7).

Male-dominated trade unions in the nineteenth century also displayed an ambiguous attitude towards working women. On one hand, some unions actively supported protective legislation. For example, in 1898 the Trades and Labour Congress of Canada wrote into its platform, "Abolition of child labour by children under 14...and of female labour in all branches of industrial life, such as mines, workshops, factories, etc..." (Forsey, 1982:461). This Congress clearly supported the restriction of women's employment in certain industries. This same body, however, advocated equal pay for working women. In the 1883 TLC convention, John Armstrong states:

If the men of the country worked under the same disabilities as the working women there would soon be a revolution. He could not for the life of him see why a woman should not receive the same rate of wages as a man, if she was capable of performing the same amount of labour...and many times it had come under his observation that their work in some lines was accomplished with more neatness and dispatch (cited in Forsey, 1982:444)

Armstrong seemed quite liberal in his thinking. He seemed to advocate modern "pay equity". If a woman performed the same work as that of a man, then she should be paid equally. In fact, he said that sometimes women performed their tasks with more "neatness" or "dispatch" than men. This suggests that at times women perform their jobs better than men and yet receive lower wages.

Although Armstrong seemed to advocate equal pay for women, his motives are questionable. If women were paid the same as men, they would no longer lower wages, cause job competition, or possibly even comprise part of the work force (MacCallum, 1985-1986:37; Jenson, 1986:37). Nonetheless, overall these unions and testimonies from male workers were, at best, ambivalent towards working women. This rather "mixed" reaction may reflect the contradictions of both gender and class. Perhaps as men they envisioned protection for women, but as working-class men they needed the money earned by their daughters to help support the family. In fact, Trofimenkoff contends that there were almost as many opinions as there were working men witnesses. As household men, they knew the value of their wives' or daughters' wages, but as union men they recognized the necessity of equal pay for equal

work (Trofimenkoff, 1992:197). In any case, what were working-class women's attitudes towards protective legislation?

There exists very little historical evidence on what working-class women wanted in late nineteenth century Ontario¹². According to Trofimenkoff, however, some information can be gleaned from the Reports of the Royal Commission on Labour and Capital in the 1880s. From these reports we hear Canada's early industrial women recount the type of work they did, describe their working and living conditions, and their complaints. Trofimenkoff reminds us that only a small part of this investigation concerned itself with female labour. No one really wanted to hear from working-class women (1992:192).

Trofimenkoff argues that these working women's voices were "muffled" before these royal commissions. As witnesses, they constituted only one-fortieth of all Ontario testimonies. Moreover, most of these women were reluctant to give their names. They were forthright in describing their work and living conditions, but when the time came to voice complaints they fell silent. Only when they gave their testimonies anonymously did they voice any grievances. They spoke of badly ventilated workshops, extra time worked without compensation, and the low rate of wages paid to women. Trofimenkoff concludes that these women were afraid and thus "muffled" their voices (1992:192-6). These working women spoke of health and safety problems and the problem of low wages. This perhaps suggests that they were not keen on laws which would even further restrict their labour potential.

On one hand, it is problematic to make "sweeping statements" about what each class wanted in the way of protection for the working-class. That is, we must recognize that these classes are not homogeneous or unified groups. Men and women, both from the working and employer classes, all varied in their attitudes towards women and work in the nineteenth century. Class influenced their ideas and actions concerning protective legislation for women, but so did gender. The two cannot be separated in practice. According to both their class and gender, men and women must be treated as individual actors. And this is exactly why patriarchy and capitalism must be conceptualized as parts of the same system.

Role of the State

In understanding the rise of protective labour legislation in the 1880s in Ontario, it is necessary to examine the role of the state in both times of regulation and crisis. The history of industrial capitalism in Canada can be separated into periods in which a model of development reproduces ongoing social arrangements and moments of crisis and renegotiation, albeit within constraints (Jenson, 1990a:661). What was the role of the state and protective legislation in nineteenth century Ontario? This discussion will comprise three distinct phases. First, I will examine the state and regulation theory. Second, I will investigate how this approach applies to both Canada and the provinces in the latter half of the nineteenth century. And third, I will present theories of the state and regulation with respect to women and labour.

The State and Regulation Theory

According to Jenson, the state does play a regulating role in capitalist society. The focus is on the social relations of civil society and the actual exercise of class power, including the representation of alliances between fractions of capital as well as subordinate classes and other organizations. This strategy for understanding the state and actors requires attention to the institution of liberal democracy. The formal equality of liberal democracy, the class-based inequalities of capitalism, and the ways in which all forms of difference in social relations find expression in representative institutions all emerge from such a study (Jenson, 1990a:658).

According to Jenson, social theory can only account for both stability and change by understanding the politics of action. Politics involve actors' efforts to etch out a place for themselves within the system by mobilizing support for their own collective identity and the subsequent enumeration of their interests (1990a:662). This definition of politics is dependent upon an understanding of the dual aspects of representation; first, an actor's representation of self to others through their collective identity; and second, the representation of interests from the language of liberal democracy, a process which has meant, since the emergence of the modern state, representation to the state (1990b:62)¹³. According to Jenson, "both senses of representation involve power, the power to give meaning to things and thereby to represent the 'interests' of those whose collective identities are

recognizable" (1990b:62). Politics is about both the conflict over or acceptance of collective identities and the conflict among groups and organizations about who has a right to make claims and who gets what, when, and how (Jenson, 1990a:663; 1990b:62-63).

History shows us that all historical moments are not equally open to the establishment of new actors and interests. There are periods in which there exists a relative societal consensus about the names of actors and their interests. In this case, politics may be deemed as conflict within the terms of an ongoing system of representation, which is regulation. Non-crisis moments are regulated by a model of development which is a combination of institutionalized social relations which reproduce over time. Stabilization of a regime of accumulation depends upon its being institutionalized as norms, habits and laws in a mode of regulation which guarantees that its actors conform more or less to reproduction in their daily behaviour and in their struggles within contradictory social relations. A mode of regulation exists when a set of practices and their meanings stabilize a regime of accumulation. According to Jenson, the establishment and continuity of a stable, or hegemonic, mode of regulation and societal paradigm¹⁴, within which only some collective identities are represented, is the product of politics in its broadest sense (1990a:663-665). In fact, a "hegemonic societal paradigm specifies which collective projects will define the boundary of 'the political', which actors will be visible, and which interests will be in play" (1990b:63). There are moments, on the other hand, when

debates challenge both the distributional effects of politics and the right of some actors to make claims. This situation may be termed as one of crisis. In a situation of crisis, newly visible and active actors in the universe of political discourse will present alternative modes of regulation and societal paradigms and will engage in political conflict to effect a new compromise (Jenson, 1990a:666).

Labour, Capital, and Politics in nineteenth century Canada

We must understand the politics of action to account for both stability and change in late nineteenth century Canada. What was the role of the state in the latter half of the nineteenth century in Canada which fostered mediation in the form of new social policy and protective labour legislation? According to Mahon, the state is forced to organize the consent of the subordinate classes to bourgeoisie domination and, at the same time, arrange a consensus uniting the bourgeoisie in order to facilitate capitalist accumulation and to permit the bourgeoisie as a whole to remain the dominant class (1977:167). Since Confederation, the state was an active participant of nation-building through the implementation of the National Policy. The class involved in the establishment of this state was the bourgeoisie, particularly those involved in mercantile activities. It was only in the 1890s that the Liberal Party managed to create a national party that could successfully challenge the dominance of the "nation builders", the Conservatives. It did this, however, by embracing the concept of nation-building. In other words, the bourgeoisie were united in

their support of the National Policy. In fact, after Confederation, the hegemony, both political and ideological, of the bourgeoisie was consolidated and assured without challenge from the subordinate classes or labour (Brodie and Jenson, 1980:19-23).

Brodie and Jenson argue that between 1867 and 1905, the conservatives and liberals, two bourgeois parties, dominated the field of electoral activity in Canada. First, they contend that at the level of ideology, "political parties shape the interpretation of what aspects of social relations should be considered political, how politics should be conducted, what the boundaries of political discussion most properly may be and what kinds of conflicts can be resolved through the political process" (1980:8). Second, they argue that we should not assume that an organized working-class existed when the initial definition of politics was established in Canada. That is, the party system was established in a largely agrarian society with little industrialization. Third, it can not be assumed that the working class would recognize the political implications of their position in capitalist society and vote according to their class position, regardless of whether a political party existed which defined their class position to be indeed political. In fact, as industrialization developed and the working-class emerged and organized they learned that partisan politics were about the conflict between ethnic and religious groups rather than between classes. The Canadian labour movement in the late nineteenth century moved in a direction which minimized the opportunity for

direct political activity by way of party formation. Trade unions used their political power by bargaining for concessions from one or the other of the bourgeois parties. In other words, they "shopped" between the Liberals and Conservatives, to find which one would give the best deal to labour. Thus, in the latter half of the nineteenth century in Canada, conflict between the bourgeoisie and the workers, class conflict, lacked electoral expression (Brodie and Jenson, 1980:6-45).

According to Ostry, labour won its most significant concessions from the Liberal party or Mowat's government in the 1880s. During this decade of Conservative rule, labour legislation was instituted by the provinces and not the federal government. The lack of federal labour legislation was probably due to a fundamental change in the course of Canadian politics itself. By 1880, the Liberal Party had firmly established the policy of provincial rights as its political agenda. Moreover, while Macdonald still retained power in the 1880s, he was no longer as free to act as he was in the 1870s. In contrast, Mowat, the premier of Ontario, had won a great measure of political power. Ontario and Quebec both introduced a good deal of important legislation affecting labour. And finally, as a result of Dominion-provincial constitutional conflicts, Privy Council decisions began to favour the provinces. The relative absence of federal legislation in the eighties became evident when the record of the Conservative Government was compared to that of the provincial Government of Ontario¹⁵. The Ontario Factories' Act of

1884 was the most significant statute passed by Mowat's regime. The 1880s witnessed not only a shift in labour allegiance from the Tory to the Reform party but also a change in the direction and purpose of Canadian trade unionism. The rejection of Macdonald and the embracement of Mowat is not explained simply by Macdonald's failure to meet labour's demands or the economic and political contradictions fostered by the National Policy. Canadian labour began to rely on the support of organized labour in the United States for further financial stability. This reliance, made the Canadian labour movement more dependent on the internationals and gave it a continental outlook. And in the 1880s, the party with the continental outlook was the Liberal Party. By the end of the eighties, the labour movement was "apolitical" and pro-Liberal (1961:141-161).

Women and the State

The Ontario Factories' Act of 1884 can be viewed as an attempt by the state to ensure both the regulation and reproduction of the capitalist industrial order. That is, by providing special legislative protection for women, the state valued women more for their role in reproduction of the future industrial labour force than their productive abilities and actively supported a particular household, the nuclear family.

According to Jenson, every state and its policies are influenced by the class in power. She says that "...class struggle will cross the state, and that state policies will reflect the balance of class forces at that time" (1986:37). Jenson believes

that labour legislation will reflect the interests of the dominant class in power. And one problem placed on the agenda of the capitalist states since the nineteenth century was the development of a healthy and disciplined labour force (14). In fact, Maroney and Luxton contend that childbirth and childcare are profoundly determined by political and economic conditions. Biological reproduction has been subject to state regulation at various points in history (1987:22). More specifically, in a study of the Ontario Factories' Act of 1884, Ursel argues that the state was a critical mediator in the co-ordination of productive and reproductive relations in industrial society (1986:150). This new mediating role of the state attempted to modify the relentless drive towards the commodification of labour and the indiscriminate consumption of labour power. The state was concerned with both the exhaustion and abuse of female workers/society's reproducers and the depletion of future labour resources or child labour (1986:160-161)¹⁶. According to Ursel, state intervention involved three processes: first, state-commissioned inquiries translated the needs of the working class into specific recommendations upon which the state could act; second, there was the institution of specific legislation; and third, regulatory agencies were developed to enforce the provisions of this legislation. In fact, regulation was as critical as the legislation itself (1986:159). Moreover, she notes the number of workers excluded in the Ontario Factories' Act of 1884. Domestics and homeworkers comprised the single largest category of employed women and yet were excluded from the

terms of this legislation. She contends that the closer the work and working environment approximated women's traditional place in the home the less there existed a need for state intervention or regulation, regardless of how exploitative the terms of their employment (1986:168). Finally, Strong-Boag propels this discussion one step further. She charges that Canadian state intervention with respect to labour recruitment, education and protective legislation, supported the preservation of the nuclear family - one in which the male wage-earner was dominant and the female supplied the domestic labour which was critical to the production of new recruits for the capitalist economy (1981:4).

A mode of regulation existed in late nineteenth century Canada which assured the hegemony, both political and ideological, of the bourgeoisie without contest from the subordinate classes or labour. Both the federal and provincial governments were concerned with nation-building, railroad building, and hence, capitalist accumulation and industrial expansion. The bourgeoisie controlled the political arena and its actors. Labour indeed found a voice, but an unequal voice. It was forced to shop between both bourgeoisie parties to find which one would give the best concessions to labour. Protective labour legislation developed out of a contest between the federal and provincial governments. It may be viewed as a concession to labour and a form of reproducing the capitalist industrial order and the future supply of industrial workers.

Theories of the state, class, and gender all contributed to

the rise of labour legislation in late nineteenth century Ontario. Gender did have a profound impact on the terms of this legislation. Women were blatantly constructed as physically and morally inferior and deemed in need of protection. While gender debates raged in the 1880s concerning women and work, class also played into the equation. Men and women, both from the employer and working-classes all had something to say about the need for protective legislation. Working-class men fought for legal protection in the workplace but seemed ambivalent in their response towards special protection for women. Employer men also seemed somewhat ambivalent in their response to protective legislation. In some cases they protested the Factories' Act, and at other times took extreme measures to ensure adequate health and safety standards in their manufacturing establishments. On the other hand, middle class women were quite forthright in voicing the need for special protection for working women; but again, of course only for certain women, factory and shop girls not domestics or homeworkers. Finally, no one really wanted to hear from working-class women. In a study of the United States, Eisenstein contends that working-class women's attitudes "grew out of ...[their] active response to new conditions of work and working-class life, and to the ideas which were available to them" (1983:5)¹⁷. Much more work needs to be done to determine what working women wanted in nineteenth century Ontario.

Inherent in the foregoing discussion is the concept of power. Certainly middle class women and working-class men seem to have

been the most visible actors in the struggle for protective legislation. With this in mind, it is interesting that the Ontario Factories' Act of 1884 indeed provided some form of general protection for the working-class, and special protection for women. This concept of power also brings in the legitimate use of authority or the role of the state. It was most certainly the magnanimous arm of the state which instituted and implemented the Ontario Factories' Act of 1884. Gender and class were both articulated in the form of state intervention and protective legislation. A mode of regulation existed in late nineteenth century Canada which assured the hegemony of the bourgeoisie without contest from labour. Labour indeed found a voice in the political arena, but an unequal voice. Protective legislation may be viewed as a concession to the working-class and as a form of regulation intent on reproducing the capitalist industrial order.

1. In the RCRLC, one commissioner asked, "You believe that the helpless classes - women and children - shall be the words of the Government, and the Government shall be responsible for them?" (1888:1167) This question asked by an agent of the government directly refers to women and children as a helpless class.
2. See "The Political Economy of Ontario Women in the Nineteenth Century", Johnson (1974), for a detailed discussion of the classes prevalent in toiler society.
3. Both the accumulation of extensive capital in the form of cleared lands, buildings, livestock, and machinery, and the creation of the urban working classes contributed to the increased economic status of the agricultural class (Johnson, 1974:23-4).
4. I owe this argument to the theory of socialist feminism as found in Feminist Politics and Human Nature Jaggar (1983:123-63).
5. In dealing with historical material it is difficult to piece together what each class, labour and business, wanted with respect to industrialization and government intervention. We must remember that each class is not a homogenous group. That is, there will exist historical variation and differences amongst individuals and organized groups in the province of Ontario in the late 1800s.
6. See Daniel Drache, "The Formation and Fragmentation of the Canadian Working-Class: 1820-1920", Bryan D. Palmer, "Listening to History Rather than Historians: Reflections on Working Class History", Bryan D. Palmer, Working-Class Experience: The Rise and Reconstitution of Canadian Labour, 1800-1980, and Kealey and Palmer, "The Bonds of Unity: The Knights of Labor in Ontario, 1880-1900", for a discussion of a unified labour movement in the 1880s and its eventual fragmentation at the end of the decade.
7. For the first time, in 1858, sixty-two manufacturers, merchants, and newspaper men met in Toronto collectively to discuss tariff protection for the Canadian business class. In 1879, the advent of the National Policy marked the achievement of this goal. In 1887, they changed their name to the Canadian Manufacturers' Association, and their work branched out to include export trade and the promotion of technical education. Moreover, they made a commitment to include not only Ontario and Quebec, but the eastern provinces as well. For they believed that the Government would not be able to ignore a strong united national association which represented the manufacturing interests of the country (Clark, 1939:1-11).
8. See, for example, "One Hundred and Two Muffled Voices" Trofimenkoff (1992). In a study of the Royal Commission on Labour and Capital in the 1880s Trofimenkoff documents many testimonies by employers seeking cheap female labour.

9. Often the employer class of women are referred to as middle-class women in the literature. Consequently, I will use these terms interchangeably in the following section.

10. Early feminism in nineteenth century Ontario was fraught with tensions and divisions between the 'new woman' or suffragists and the more conservative maternal feminists. See Wayne Roberts "'Rocking the Cradle for the World': The New Woman and Maternal Feminism, Toronto 1877-1914", for a review of the split and eventual triumph of maternal feminism.

11. See Divided Loyalties: Dilemmas of Sex and Class. Phillips (1987:34), for a discussion of middle class womens' proper place and role in society.

12. Womens history does not have a long-standing and definable tradition. See Gender and The Politics of History, Scott (1988) for insight into the problems historians face as they attempt to produce new knowledge about women (Scott, 1988:16-17).

13. Mahon discusses the two different forms of representation articulated within the language of liberal democracy. "Interest group" representation embodies one particular interest and does not possess "authority". Whereas, "representation inside the state" simultaneously represents a particular interest and is bound by a commitment to reach a compromise and see beyond the particular to the general or national interest. Moreover, representatives inside the state, are endowed with authority or the legitimate use of force to effect the very compromises reached (1977:170).

14. Jenson defines a societal paradigm as a shared set of interconnected norms, habits and laws which make sense of many of the social relations beyond the realm of production. Moreover, each paradigm contains a view of human nature, a definition of proper social relations among equals and those in relationships of hierarchy, and specifications of the relations among institutions and their roles. In sum, a societal paradigm is a meaning system and a set of practices. And, a well-functioning one will stabilize the specific relations of domination of its social bloc (1990:665).

15. See Bernard Ostry, "Conservatives, Liberals, and Labour in the 1880's" for a detailed account of Macdonald's failing conservative regime versus Mowat's rise to power and their subsequent contest for labour's support in the form of social policy and legislative protection.

16. This argument brings up the concept of the relative autonomy of the state. That is, "if the state is to perform the role of organizer of hegemony it cannot be the 'instrument' of any one class or fraction but rather must possess a 'relative autonomy' in relation to the immediate (short-term) interests of the dominant class(es)" (Mahon, 1977:169) For an examination of the debate

within political economy over the 'relative autonomy' of the state, see Albo and Jenson, "A Contested Concept: The Relative Autonomy of the State".

17. See, for example, City of Women: Sex and Class in New York, Stansell (1986) for a further elaboration on the ways to break the silence of working-class women's attitudes and perceptions towards the conditions of working-class life in nineteenth century America.

Chapter 3

The Ontario Factories' Act of 1884

In chapters one and two, we examined the political economy of nineteenth century Ontario and the factors which helped produce this Act. The rise of industrialism in Ontario, the material subsistence of the working-class family, health and safety hazards in the workplace, the conditions of female labour, and gender, class, and the state all contributed to Ontario's first health and safety legislation. In this chapter, we will investigate all three provisions of this Act. What did this legislation include and what escaped its boundaries? This statute defined a factory and offered shelter only to those as outlined. In fact, several occupations were continuously excluded from the terms of this labour legislation. We will examine who was protected by terms and conditions of this Act and who was not.

It should be noted that factory legislation was implemented at the provincial levels only. The Ontario Factories' Act was voted into law in 1884, proclaimed in 1886, and enforced in 1888 (Glasbeek, 1992:2). This Act contained three basic provisions: first, those specifically regulating child and female labour; second, those regulating all factory work; and finally, those dealing with administration and enforcement.

Provision One

The first provision deals with child and female labour. It is important to note that this section is gender specific. That is, there is no mention of specifically protecting or regulating men and their work. This Act defined the age of children as fourteen years and under (s. 2(5)). No boy under twelve and no girl under fourteen was to be employed in any factory (s. 6(1)), and if employed between the ages of twelve and fourteen, boys had to produce a certificate by a physician stating their age (s. 6(2)). This Act prohibited conditions of work which would permanently injure the health of children, young girls (fourteen to eighteen years of age), and women (s. 5). Moreover, any child, young girl, or woman who did any work in a factory was deemed employed in the factory (s. 4). Maximum hours of work were established (s. 6 (3)) and night-time work was forbidden (s. 8(3)). For example, women and young girls were not to work longer than ten hours a day, or sixty hours per week (s. 6(3)), and they were not to begin work before six a.m. or end after nine p.m. (s. 8(3)). Overtime permits could be obtained but they were not to work more than twelve and a half hours in any one day, nor more than seventy-two and a half in any one week, and these exemptions were not to extend for more than six weeks during the year (s. 8(3)). Furthermore, these overtime hours were to be daily recorded in registers by their employers (s. 9). Women, young girls, and children were not to take meals in any room in which a manufacturing process took place (s. 6(5)). In fact, they were entitled to a one hour lunch

break (s. 6(4)) in a "suitable" dining room provided at the employer's expense (s. 6(5)). Finally, section seven detailed that children, young girls, and women were not to clean machinery in motion, or to work between machines powered by steam, water, or other mechanical means (Ontario Factories' Act, 1884).

It is necessary to understand the protection offered to women and children in this first provision. First, it is interesting to note that although this Act defines the ages of children as fourteen years and under, boys could work from the ages of twelve and girls not until age fourteen. This is clearly a contradiction based on the sex of children. That is, male children of twelve and thirteen could work in a factory, whereas female children could not. Second, the language in this first proviso is "open-ended" (Tucker, 1990:138). For example, this Act bans conditions of work which would permanently injure the health of children, young girls, and women. This provision could be understood in two different contexts. On one hand, it is a rather vague statement which does not stipulate the specific conditions of work which could be construed as injurious to the health of these groups. On the other hand, this statement could give much freedom of interpretation with regard to health and safety hazards in the workplace (Tucker, 1990:138). Finally, this provision specifically limits the hours of young girls and women to ten hours a day totalling no more than sixty hours per week. And yet, according to the Royal Commission on the Relations of Labour and Capital, most women did not work sixty hours per week.

Provision Two

The second provision of the Ontario Factories' Act regulated all factory work. A factory was defined by any premises in which steam, water, or other mechanical power was used to aid the manufacturing process and where twenty or more persons were employed in manual labour (s. 2(1)). An employer was defined by any person on his own behalf, or as manager, superintendent, overseer, or agent who has charge of any factory and employs persons therein (s. 2(3)). Moreover, any person found in a factory, except at meal times, while all the machinery was stopped, or for the sole purpose of bringing food to persons employed therein, was deemed, until proven otherwise, an employee of that factory (s. 3). Every factory was to be kept in a clean state, free from "effluvia" (s. 11(1)), and ventilated from gases, vapours, dust or other impurities generated in the manufacturing or handicraft process (s. 11(3)). Where mechanical means could eliminate, or partially eliminate such problems of ventilation, the employer was required to provide them (s. 12(2)). A workplace was not to be so overcrowded that it caused injury to the health of the persons employed therein (s. 11(2)). Every establishment was to have separate water-closets for men and women with different entrances and they were to be kept clean and well ventilated at all times (s. 11(4)). The Inspector may take with him into any factory a physician or health officer (s. 13) to determine that all moving parts of machinery were securely guarded and not cleaned while in motion (s. 15(1,2)), and that the openings of every hoistway,

hatchway, well-hole, elevator cabs or cars were securely guarded (s. 15(3,4)). Every factory was to have sufficient fire escapes, means of extinguishing fires, the main inside and outside doors were to open outwardly, any other doors were not to be locked during working hours, and every factory three or more storeys required an adequate number of fire escapes (s. 16(1-3)). It was illegal to maintain conditions in a factory which would endanger the safety of any employee or injure their health permanently (s. 14). In fact, every employer was required to implement suggestions made by the inspectors to remedy health and safety hazards within their establishments (s. 12(1)). The parent of any child or young girl employed contrary to the Act was liable to penalty (s. 17). Each employer was to report accidents causing death or serious bodily harm to the inspector within six days of the occurrence (s. 19). An owner or hirer of a machine powered by steam, water or other mechanical means, who employs women, children, or young girls, and commits an offence against this Act, will be deemed the employer (s. 20). Finally, section 22 declares that any person who makes a false entry in any register, notice, certificate or document required by this Act will be subject to penalty (Ontario Factories' Act, 1884).

It is necessary to understand the specific terms and protection offered to all factory work in the second provision. First, this section orders every factory to be kept in a clean state. On one hand, this is a vague statement not detailing what exactly within the factory should be kept clean. On the other

hand, this statement lends much freedom for interpretation as to what should be properly clean within each manufacturing establishment. Second, this proviso details that each workplace was not to be in an overcrowded state causing injury to the health of its respective employees. Again, this is a blatant example of "open-ended" language used throughout this Act. How was one to interpret or delineate an "overcrowded state" unless it was more concretely specified? Similarly, it was illegal to maintain hazards in the workplace which may permanently injure employees' health. This specification could be interpreted as a "blanket" statement covering almost anything in a factory or it could be deemed vague. Finally, each employer was responsible for reporting accidents within six days of the incident. The time restraint of six days is problematic. This constitutes a "loop-hole" in the legislation because many employers failed to report within the aforementioned time frame and consequently rendered this proviso ineffective.

Provision Three

The third provision of the Ontario Factories' Act pertained to administration and enforcement. The inspector was to be appointed by the Lieutenant-Governor in Council for the sole purpose of enforcing this Act (s. 2(2)). The "court of summary jurisdiction" designated the Justices of the Peace or Police Magistrates, to whom jurisdiction was given to hear and determine prosecutions under this Act (s. 2(9)). The Lieutenant-Governor in Council may make regulations which permit the inspectors to make exemptions

regarding accidents and overtime permits (s. 8(1,3)). The Lieutenant-Governor in Council may both appoint the inspector and make rules, regulations and orders for enforcing this Act (s. 24(1,2)). The Inspector is granted certain powers to enforce the regulations of this Act. He or she may enter, inspect and examine, day or night any factory, require the production of any register, certificate, notice, or document required by this Act, to take with him a constable into any factory, to make any inquiries or examinations to ascertain the degree of compliance with this Act, to examine alone or in the presence of any other person any individuals found in a factory, to administer an oath and summon any person to give evidence, and to exercise other powers necessary to make this Act effective (s. 25 (1-7)). The employer and his agents are required to facilitate the inspector in entry, inspection, examination, and inquiry in relation to their factory (s. 25(7)). The Inspector, before entering an establishment used as both a dwelling and factory, must obtain an affidavit from the Lieutenant-Governor in Council (s. 26). Every Inspector must be furnished with a formal certificate of his appointment and when applying for admission to a factory, produce this certificate if requested (s. 27). Within one month of occupying a factory, employers must send writter notice to the inspector (s. 28(1). In every factory, manufacturers were required to keep a formal register of the women, young girls, and children employed in their establishment (s. 28(2). The provisions of this Act, name and address of the Inspector, hours of employment, and every other

document required by this Act were to be affixed at the entrance of every factory (s. 29(1-4)). Any notice or document under this Act may be in print, writing or both (s. 30(1)). There will be a penalty of fifty dollars for a contravention of the Act when no express penalty is provided (s. 31). In addition to inflicting fines, the court of summary jurisdiction may order certain means to be adopted by the employer to bring the factory into conformity with the Act (s. 32). The employer may be exempt from penalty if he can prove that another person committed the offence without his knowledge (s. 33). In this case, the inspector may proceed against the "actual offender" (s. 34), who will be subject to a fine for committing an offence for which the employer was liable (s. 35). There will be a restraint on cumulative fines (s. 36). Information must be given within two months and imprisonment must occur within three months of the offence (s. 38(1)). The description of an offence in the words of this Act will be sufficient (s. 38(2)). Any exception, exemption, proviso, excuse, or qualification may be proved by the defendant but no proof is required by the informant (s. 38(3)). It is sufficient to allege that a factory is a factory by the terms outlined in this Act (s. 38(4)). It will be sufficient to state the name of the employer or the title of the establishment by which the employer is generally known (s. 38(5)). A conviction or order made in any matter arising under this Act, will not be dismissed for want of form (s. 38(6)). All prosecutions under this Act may be brought before any two Justices of the Peace or police magistrates (s. 39). The Inspector is

required to prepare an annual report, as the Lieutenant-Governor directs, for the Legislative Assembly (s. 40). Finally, section forty-one declared this Act not to come into force until a day named by the Lieutenant-Governor (Ontario Factories' Act, 1884).

It is necessary to understand the terms of administration and enforcement specified in this last provision of the Ontario Factories' Act of 1884. First, this section extended considerable power and scope for future improvements for both the Lieutenant-Governor and the inspectors. The Lieutenant-Governor had the authority to grant exemptions for both accidents and overtime permits (s. 8), and appoint the inspectors (s. 24(2)). A general clause states that he could make rules, regulations and orders for enforcing this Act (s. 24(1)). This proviso gives considerable freedom for future adjustments with regard to the enforcement of this Act. Similarly, inspectors were given considerable power to enter and inspect establishments at will and to obtain any information necessary to implement this Factory Act (s. 25). Moreover, it is important to note that the terms of this Act and the consequent inspector were to be made accessible to the working classes; that is, the terms of this legislation and the name and address of the inspector were to be posted at the entrance of every factory. A specific clause also denoted a penalty of fifty dollars for any contravention of the Act where no express penalty was provided. This proviso suggests a "safety net" for any offenses not specifically covered by the terms of this legislation. Information had to be given within two months and imprisonment must

occur within three months of the precipitating incident. The time limit imposed within this clause could perhaps prove limiting in the actual enforcement of the Act. Finally, this Act was not to come into force until a day named by the Lieutenant-Governor. The Act would not be implemented for an indefinite period of time. It has been suggested that this indefinite inaction was a conscious political move.

"Boundaries" of the Act

The Ontario Factories' Act of 1884 not only contained these three provisions but also specifically excluded certain industries and persons in the terms of this legislation. Section 21(1-4) of this Act stipulated that those conditions which relate to the cleanliness, freedom from effluvia, overcrowding, ventilation, the affixing of notices to the factory, the sending notice of accidents, and the time allowed for meals in a suitable dining room for women, children, and young girls did not apply to private houses¹. Second, section twenty-three did not protect any person whether a mechanic, artisan or labourer, repairing machinery or any part of a factory (Ontario Factories' Act, 1884). Third, this Act is gender specific. Its terms do not specifically relate to men; that is, rather than equally protect the health and safety of all workers, it seeks to regulate the terms of women's paid employment. In fact, many complaints were received from men working in the saw mills more than ten hours a day (Inspector of Factories, 1894:11), "but as only the hours of labor for females are restricted, no remedy for the grievance can be had under the existing Factories

Act" (Inspector of Factories, 1900:13). Fourth, it is interesting to note that this Act is silent on the issue of equal wages for women. Although this issue was recognized by both working-class men and women, it is not acknowledged in the Ontario Factories' Act of 1884. Fifth, this Act defines a factory as twenty or more persons. Any employment consisting of fewer employees is not subject to the terms of this legislation. According to Cohen, in Ontario in 1851, the typical manufacturing establishment had fewer than five workers. By 1871, the average size of these workshops did not change, but those located in cities tended to be bigger. For example, in Toronto, 70 per cent of the industrial workforce in 1871 were employed in establishments with more than thirty employees (Cohen, 1988:125). This suggests that although a majority of workshops in larger cities were protected by the terms of this Act, the average establishment contained less than five employees in 1871. Thus, many workers were not privileged by the terms of this legislation. Not only were many places of employment smaller than five persons, but this Act excludes both homeworkers and domestic servants. And yet, domestics comprised the single largest occupation for women up until the early twentieth century. The majority of working-class women were not "protected" by the terms of the Ontario Factories' Act of 1884.

There were many industries and occupations not protected by the Ontario Factories' Act of 1884 and its subsequent amendments. However, I would like to examine two classes of workers, those involved in domestic service and those involved in the contract-

making of clothing. The contract-making of clothing has been referred to as the "sweating industry" or those shops where tailoring work and ready-made clothing was prepared for the wholesale establishments (RCRLC, 1888:167). There were several groups of workers involved in the sweating industry who were not protected by the terms of the Factory Act. First, a large proportion of females worked as dressmakers and milliners in their own homes and were not included in the industrial count (Cohen, 1988:140)². Second, Carlyle describes the family contractors over whom she had no control:

The work is done by the piece, and as a consequence in families the hours of labor are wholly unrestricted, running often far into the night. The question has been put to me: 'Why may a man work his own children harder than other folks, and why may clothing be made under dirty conditions where one family is working, when I only employ four and must set my house in order and conform to regular hours?' Their work is taken from these abodes, for they serve the purposes of work rooms, sleeping quarters and dwelling place, to the public clothing store, and placed side by side with the factory-made goods. It is not difficult to tell what the ultimate result will be. While factory legislation tends to purify and improve the factories, it does so at an increased expenditure to the factory owners, while these other places are not subject to any such expense (Inspector of Factories, 1899:26-27).

Whole families worked unrestricted hours far into the night. They worked under dirty conditions in their houses which served as work rooms and sleeping quarters. Third, in the larger shops a number of independent masters would rent small portions of their shop to persons having seat room, the practice whereby one person would hire a large room, then sub-let in small portions to others who made their own contracts and hired their own help, thus dividing responsibility for violations of the law (Inspectors of Factories,

1899:22). Similarly, there were workers in the clothing trade who would get their work from different establishments, and engage premises together, with all of the necessary appliances, each worker contributing so much towards the rent and other expenses. Other places existed in which one person would rent a room equipped with sewing tables, stoves and other necessities of the trade. He or she would then rent to each worker sitting space with the use of the tools. These workers were their own masters. They would get their work from different tailors and come and go as they please as long as they met their work deadlines. In all of these cases, the Factories' Act did not apply and the Inspector had no authority to bring such places into conformity with the law (Inspector of Factories, 1892:9).

These workers were not protected by the terms of the Factories' Act, and yet their workplaces were among the worst kept. Usually located in old buildings, or in private houses, narrow streets, lanes, back yards, and sometimes basements, they lacked in lighting, air, cleanliness, and plumbing arrangements (Inspector of Factories, 1899:26). In fact, Carlyle described these workplaces as dirty, overcrowded, and neglected. The gas stoves used for heating the pressing irons gave off offensive, noxious fumes (Inspector of Factories, 1897:24). These employees were compelled to accept starvation wages. The expenses for lighting, heating, help and rent had to be the lowest possible in order to eke out a slight profit (Inspector of Factories, 1899:26). Carlyle argued that "these workshops, with very few exceptions, are among the

worst kept...To attempt to apply factory discipline in tenement houses satisfactorily is next to impossible" (Inspector of Factories, 1901:12).

The Ontario Factories' Act of 1884 was inapplicable to those employed in the contract-making of clothing and domestic service (Leslie, 1974:113; Cohen, 1988:134). Domestic service was the single largest employer of women in nineteenth century Ontario and yet these workers were not protected by the terms of this Act. Domestic service in Canada, in the late nineteenth century, involved long hours and harsh working conditions. R. Meek, a journalist from Kingston, testified that some of the young girls were so physically light that they would not tolerate working from daylight to dark, and even all night too (RCRLC, 1888:1009). In a study of Toronto, Montreal, Quebec City, and Halifax, from 1871-75, Claudette Lacelle investigates the harsh realities of domestic service in Canada. According to Lacelle, domestic service seemed harsher in the second half of the nineteenth century and servants were viewed less favourably (1987:140)³. Domestic service was hard exacting work. A female servant often had to lift heavy objects, move them from room to room and floor to floor, clean carpets, furniture, fire dogs, fireplace grates, staircases, and wooden and stone floors. Moreover, some of the work was done in the kitchen where the heat was stifling. These duties were made all the more difficult because the servant was always on call. Lacelle charges that the workday was not only punishing, but also long. It lasted around 15 hours and sometimes 17 and 18 hours (1987:93-94).

Not only did domestic service involve punishing hours, but a funeral notice of one such servant indicates some of the hazards and harsh conditions involved:

It is with deep sorrow and longing that I inform you of the death of my beloved daughter Siiri Mary who became the victim of a terrible death in her place of employment in Nanaimo, B.C. on the first of May at 04:00 in the morning. As she was lighting the fire in the kitchen stove with kerosene it exploded and the fire ignited her clothes and she burnt so badly that on the fifth of May she died in the Nanaimo hospital at 11:30 in the evening. She was born on January 1, 1905 and died on May 5, 1922 at the age of 16 years 4 months and 4 days. Father remembers you with bitter sadness and longing (quoted in Lindstrom-Best, 1986:33).

According to Lindstrom-Best, this moving funeral notice reveals some of the dark realities and health hazards involved in domestic service in Canada. Why was this young girl beginning her work day at 4:00 A.M.? What knowledge did she have of kerosene and protection in case of an accident? Who could advise and instruct her? While the domestic servant looked after all of the members of the household, in effect, no one looked after her (33).

In nineteenth century Ontario, women were deemed in need of protection. And yet the industries which employed most women were not covered by the terms of this legislation. Both the sweating industry and domestic service entailed harsh dangerous working conditions and punishing hours and yet these women were not deemed worthy of protection. Furthermore, why were the terms of this legislation not extended to all workers, men as well as women? Frequently working-class men complained of long inhumane hours which in itself caused industrial accidents.

It is very important to examine what was both included and excluded by the terms of the Ontario Factories' Act of 1884. This statute contained this basic provisions: first, those regulating child and female labour; second, those regulating all factory work; and third, those dealing with enforcement. Moreover, it set "boundaries" over who would receive protection and who would not. In fact, it should be noted that the conditions of certain occupations, such as domestics and homeworkers, were notably worse than factory work before health and safety was ever instituted and implemented in Ontario. With this in mind, why were these occupations continuously excluded from the terms of protective legislation in late nineteenth century Ontario? While this question has been somewhat contemplated in chapter two with respect to middle class women and the state, it is an interesting question which may provide the basis for future research. At this point, however, we must question the consequences and implications of this legislation. That is, chapters four and five will examine the factory inspectorate and subsequent implementation of Ontario's protective labour legislation.

1. That is, where persons were employed in a private house, room, or place which may be used as both dwelling and factory, where not steam power is utilized, in which the employers were all members of the same family dwelling, and where they did not employ children or young girls, the aforementioned stipulations do not apply.

2. Although I have not discovered any concrete statistics as to the numbers employed in this industry, the RCRLC did interview several clothing manufacturers. According to James Munro, a Foreman Tailor from Hamilton, 2,000 work outside at clothing and sewing for his company, Messrs. Sanford & Co. (RCRLC, 1888:829).

3. For example, sources on household management in the beginning of the century recommended that servants should not be left in idleness, whereas later works recommended that their workloads be lightened (Lacelle, 1987:140).

Chapter 4

Early British Factory Inspectorate

How were the provisions of the early Factory Acts operationalized? From the outset, the enforcement of health and safety laws have proved problematic. An administrative machinery, the early factory inspectorate, was established to implement health and safety in the workplace (Bartrip and Fenn, 1980:87). What was their role and were they successful? In other words, was the power of the inspectorate utilized for the benefit of the working-class, men and women? Literature has bloomed on the role of the early factory inspectors, their successes and failures. A debate has ensued over the rise of white collar crime, constructing the meaning of compliance, persuasion versus prosecution, and the tenets of bargain and bluff. In this chapter, we will examine these theories within the context of the factory inspectorate in early nineteenth century Britain. It is important to review this literature for several reasons. First, the Ontario factory inspectorate in the 1880s were both familiar with and influenced by British and North American models of enforcement. And second, in his comprehensive analysis of the implementation of Ontario legislation from 1886 to 1900, Tucker applies to Canada ideas which were first developed in the British context. Overall, this literature will help us to further theorize about the inspectorate in nineteenth century Ontario.

According to Bartrip and Fenn, "the law cannot be divorced or viewed in isolation from those who hold the official power to

administer it"(1980a:99). They analyze the British Factory Act of 1833 which created a system of inspection and established the appointment of four inspectors. They examine the way in which the early inspectors exercised their discretionary powers and the impact this had on safety at work. Moreover, they review the various policies and achievements in the inspectors' respective districts, given the organizational, legal, and economic constraints under which they operated (88). According to Bartrip and Fenn, inspectors had two main enforcement strategies: persuasion and prosecution. In 1845 prosecution was a real policy instrument, whereas by the 1860s it had become insignificant (95).

According to these authors, it would be naive to attribute this decline in prosecutions merely to changing inspectoral attitudes since inspection was subject to several limitations. In a period of economic expansion, resources were considerably constrained. As a result, a policy of persuasion was more efficient than the more time-consuming prosecutions. Moreover, the law and subsequent legal system defined and limited enforcement procedures open to the inspectors. For example, the words 'securely fenced' were open-ended and vague, subject to different interpretation. It was difficult to secure a prosecution under these circumstances. Also, the moderate sanctions imposed would hardly deter manufacturers obstructing the Act. Finally, when inspectors did prosecute, the magistracy, often comprising the factory occupier, were reluctant to convict their fellow manufacturers even on the strongest evidence. A much better policy

then was to treat prosecution as the ultimate weapon, more powerful in its threat than reality (Bartrip and Fenn, 1980a:95-6).

According to Bartrip and Fenn, inspectors had the power and ability to vary policy in their respective districts. For example, there was a notable difference in prosecution policies and rates among the four inspectors. They contend that the disparities between officials deserve more emphasis than they commonly receive. That is, there were considerable distinctions between the interests and operational methods of particular officers. For some, safety was a more important consideration than for others. Moreover, the manner in which they sought to secure compliance with the law varied greatly. The early inspectors were four individuals with wide powers to implement the law as they wished in their respective districts. Both their personal preferences and individual world views were important factors in the implementation of industrial regulations (Bartrip and Fenn, 1980a:98-99).

They conclude that the inspectors overall impact on health and safety standards in the workplace was far from impressive. The appointment in 1833 of only four inspectors for the entire British Isles implies that the Factory Act of that year hardly deserves to be called the first effective one. In fact, their research indicates that the establishment of inspection was not an automatic guarantee of the effectiveness of industrial legislation (Bartrip and Fenn, 1980a:100).

Carson also investigates the British Factory Act of 1833 and the subsequent appointment of the early inspectorate. Carson

concerns himself with "conventional crimes" or breaches of the Factory Acts that although defined as criminal activities and banned, were freely resorted to and only infrequently punished (1979:38). He argues that the years following 1836 saw an impetus towards rather than away from effective regulation. That is, effective factory legislation was frequently seen in this period as having an important part to play in recreating the conditions under which industrialization and laissez-faire capitalism could thrive¹ (1979:44). Moreover, the duration and conditions of employment were now matters of a legal relationship, enforceable by the factory inspectorate. However, these circumstances were subject to both problems of administration and enforcement (1979:46-47).

According to Carson, there were three difficulties which stood in the way of effective factory regulation. First, there was a deepening economic crisis from 1830 to the late 1840s. Consequently, inspectors found that breaches of the Factory Act by manufacturers were widespread. It would be virtually impossible to criminalize such a wide scope of employers who were of considerable status, social respectability, and political influence. Second, there existed administrative difficulties in devising adequate means of continual inspection of factories. Third, the question of criminal responsibility became problematic. Not only were imposed penalties minimal, but often responsibility for an offence was transferred from the master onto the agent, servant, or workman. Carson contends that the early factory inspectorate overcame these administrative hurdles by conventionalizing crimes committed within

early manufacturing establishments. The Inspectors began to evolve routine modes of inspection and tolerated certain levels of violation as acceptable. Prosecution was resorted to only under the most unusual of circumstances (Carson, 1979:47-51).

Carson concludes that once a "low-profile" approach to legal proceedings has been institutionalized in an enforcement agency a circular process ensues. That is, the crime remains conventional because it is rarely prosecuted, and it is infrequently prosecuted because it remains conventional (Becker as cited in Carson, 1979:55). Moreover, Carson argues that a low-profile approach shows how differentials of power permeated the whole process whereby the meaning of factory crime was negotiated. While the labour forces of industrial society are bound by criminal law, the state and owners of capital are bound only by civil law which regulates their competition between each other. There is a differential application of the law for both owners of capital and the state, both are 'beyond incrimination' and beyond the criminal sanction (Taylor as cited in Carson, 1979:57).

Bartrip and Fenn critique Carson's examination of the early British factory inspectorate. According to them, Carson's analysis is premised on the notion that "class considerations and the desire to facilitate industrial capitalism were consistently crucial in the conventionalization of factory crime" (1980b:176). In fact, Carson appears to interpret any move made by the factory inspectors to utilize their limited resources in the most effective manner as a contribution to the conventionalisation of factory crimes.

Bartrip and Fenn take issue with Carson's prima facie emphasis on the importance of social class and economic objectives in the implementation of the British Factory Act of 1833 (1980b:176-179).

According to Bartrip and Fenn, there are several problems with the class paradigm. First, it does not explain why, if factory law was important in terms of facilitating industrial capitalism and class domination, offenses against it were made subject to criminal law thereby necessitating a process of conventionalization. Second, it does not take into account that factory crime was not exclusively "white collar" crime. That is, the legislation affected both employers and the employed. Parents and operatives were also liable for allowing children to work in factories. In this case, the shift in enforcement policy towards greater emphasis on persuasion benefited them just as it did manufacturers. Third, the "exploited" did not always feel grateful for protection under the Factory Acts². Fourth, it is naive to think of employers as a homogenous group. For example, the original factory reformers were mill owners. Finally, it is misleading to see the inspectorate as working towards certain class goals in its implementation of factory law. Sometimes there existed great antipathy between inspectors and manufacturers. According to Bartrip and Fenn, "the inspectors had no special interest in treating employers leniently or avoiding prosecution, except in so far as alternative procedures promised achievement of their objective, which was not a high rate of prosecutions, but compliance with the law" (1980b:184-85).

Inspectors employed persuasion over prosecution due to the constraints under which they operated. There were only four inspectors appointed for the whole of Britain. In these circumstances, persuasion provided a more time and cost efficient policy of enforcement. Moreover, magistrates had the power to vary penalties and were often unwilling to inflict severe penalties on manufacturers. Since the administration of justice in mill districts tended to be in the hands of millowners or their allies, perhaps the inspectors came to see prosecution as not always the most appropriate means of securing compliance with the law. Furthermore, the early acts were full of "loopholes" which made convictions difficult to secure³. Finally, it is possible to argue that the constraints under which inspectors operated were impediments created by an elite to advance and safeguard its interests. However, the governments and legislature need not be viewed as so manipulated. The inadequate power of the inspectorate may be seen not as an attempt to nullify the legislation, but as a reflection of the resources the community was prepared to devote to enforcement taking into account both efficiency considerations and the reluctance to erode laissez-faire and advance the bureaucratic state. That is, enforcement encountered the continual problem of how to achieve maximum efficiency given scarce resources (inspectors) and unlimited needs (inspection) (Bartrip and Fenn, 1980b:180-83).

Bartrip and Fenn conclude that although the protection of the workforce could have been improved, the barrier was one of

argues that a more appropriate definition of the function of the factory inspector is that of instructor or teacher. Inspectors transmitted values and standards by emphasizing the importance of a safe and healthy working environment and what this meant in practical terms. They provided a resource of knowledge and skills which legitimated them to both employers and workers. Finally, the inspectorate evaluated the standards maintained in a factory, detected violations, and judged the appropriate action to be taken (1985:224-225).

According to Jones, a number of factors worked to reduce the effectiveness of the inspectorate's work. First, the educative work of the inspectors was hampered by the environment in which it took place. That is, a factory strives towards production not education. Second, the inspectorate had to present the working classes with information that was inexpensive and not patronising. Third, the reliance on prosecution presented problems. That is, detecting breaches of the law could be difficult when visits were often cursory. Moreover, there was often a reluctance to prosecute and sentence within the courts. Fourth, new processes and manufactures in the 1930s increased the likelihood of accidents. Finally, a great deal of blame was placed on the workers for causing accidents (234-235). Jones concludes that the great disparity between the aims and achievements of inspectors reflected fiscal restraints, and the absence of agreement over safety, between factory inspectors and the courts, and employers and workers (234).

resources. There is no need to look beyond the constraints faced by the inspectors to explain the evolution of their policy, which was a pragmatic response to the difficulties of the situation they faced (1980b:182-83). In fact, much of the progress of factory legislation and its implementation can be viewed in terms of a search for efficient legislative provisions. Ultimately, inspection was a function that operated exclusive of class goals (1980b:184-85).

Carson responds to Bartrip and Fenn contending that while they quite accurately see the history of early British factory legislation, they fail to see his argument in several important respects and to appreciate how some of their own material could be used to support rather than challenge it. Carson claims that these authors appear to have misunderstood him in his argument that the emerging industrial order contains an impetus towards rather than away from effective regulation (1980:186-187). Second, Carson maintains that he did stress the conflict that existed between manufacturers and inspectors in his article. Third, he argues that the criminal law did not run its course because Lord Ashley's proposals for higher fines were rejected. Carson contends that such suggestions represent a wider social movement which would have welcomed the factory occupier being equated with the ordinary criminal. Fourth, he strongly advocates the necessity of looking beyond the constraints faced by the inspectors in order to explain the evolution of their policy. In fact, the magistracy in its reluctance to convict and its tendency to mitigate penalties

beautifully encapsulates his argument of furthering class interests. Similarly, Carson firmly agrees that the inspectors worked under a constant constraint of resources. However, these limitations stemmed from a collision between the impetus towards regulation, and the basic structural and ideological features of the new order. If this is a 'class paradigm', although he would not choose this term, then so be it. Carson ultimately charges that Bartrip and Fenn come close to agreeing with him when they conclude that "inspectors and the wider bureaucracy played an important role in the emergence of a viable class society in Victorian Britain" (1980:188-190).

In a book entitled 'Without the Law' Administrative Justice and Legal Pluralism in Nineteenth-Century England, H.W. Arthurs also investigates early British Factory and Mine Legislation and the subsequent role of the inspectorate. According to Arthurs, Victorian legislators and administrators had to grapple with how to achieve effective local implementation of their national policies. And the intensity of their response was determined largely by the degree of commitment exhibited by all of those concerned: the public, politically powerful interests, the courts, the legislators, and the administrators themselves (1985:103).

With respect to factories, the reforms most needed in 1833 were in the administration of factories' legislation rather than in the system of sanctions⁴. The key innovation of the 1833 Act was the national government's acceptance of continuing and primary responsibility for the Act's enforcement. The appointment of four

inspectors to implement factory legislation represented a shift from the former reliance upon the criminal law to primary reliance upon administrative regulation. The inspectors soon developed regulations that both defined the required standards of conduct and provided *prima facie* evidence of breach. In 1844, these regulations were incorporated into legislation. However, it is important to note that enforcement of the legislation continued to depend upon criminal prosecution which was weak. To the extent that this legislation was successful, credit must be given primarily to administrative intervention. That is, through formal regulations and orders, increased surveillance and informal discussion, more accurate reporting, and more effective publicity, manufacturers were gradually brought into compliance (Arthurs, 1985:104-107).

Similarly, in the mines, politically powerful interests managed to fend off state interference. Arthurs contends that it was ultimately as mediators that the inspectors functioned. Prosecution remained a peripheral technique for harassing offenders. The only real hope for compliance remained in the ability of the inspectors to persuade employers to accept responsibility for the workers' safety. The reluctance of magistrates to stigmatize manufacturers as criminals underlines the special contribution of the inspectorate. It rather than the courts were the authentic agent of the rule of law. What could not be gained by way of prosecution had to be secured by informal discussion, guidance, compromise, publicity, exhortation, bluff,

and co-operation (Arthurs, 1985:111-112).

Arthurs concludes that while it is important not to overestimate the extent to which the inspectors could actually transform the conditions of work for employees, it is important not to underestimate their significance as a major innovation in the technology of administration. The inspectors functioned under two handicaps. First, they could move no faster than the pace of scientific discovery and technological change would permit. They continually battled new processes and technology which provided new hazards to workers. Second, they faced a lack of resources. There is evidence, however, of the inspector's contribution to the development of new legislation and improved administrative arrangements. They had the facts and experience to create feedback, and provide information upon which further developments might be based. Moreover, the inspectorate did lay the practical foundations of modern administration and social policy. That is, they drafted statutes which parliament enacted, they interpreted legislation, and through both formal and informal tactics secured adherence to the law (1985:112-115).

Veljanovski investigates the British Factory Inspectorate's economic efficiency in the context of legal rules and their subsequent enforcement. He argues that the accentuated use of negotiated compliance can be explained by inspectors trying to minimize the social costs of harmful activities subject to institutional, political, and budgetary constraints (1983:75-76). Enforcement agents with an objective of economic efficiency are

constrained by the legal, political, and economic environment in which they operate. The best they can do is to maximize efficiency given the constraints (82).

Veljanovski argues that the Factory Inspectorate was subject to a number of constraints. First, the nature of offenses and maximum penalties are determined by statute, the actual fine by the courts, and the enforcement budget by parliament. Second, most detected violations are not prosecuted because the inspectorate does not have sufficient resources to pursue this course of action. Lack of resources helps to explain the use of negotiated compliance or only partial enforcement of regulations (82-83). The economic model of efficient enforcement predicts that inspectors would tend not to prosecute overinclusive standards⁵ or standards in which the enforcement costs are high. Also, inspectors will resort to strategies which encourage a higher rate of compliance or are more cost efficient (83). These legal, economic, and political constraints encourage a model of negotiated compliance.

Negotiated compliance involves bargaining and elements of exchange motivated by the cost-savings to each party of not going to court. In fact, the adoption of a reasonable attitude to overinclusion by the inspector can be used to achieve compliance with other regulations. Moreover, the inspector can exchange free information to the firm or manufacturer for the price of compliance. There will exist elements of bluffing from both parties. The firm will attempt to bargain its way out of compliance by exaggerating compliance costs of the technical

feasibility of compliance, whereas the inspector will exaggerate the likelihood of prosecution, or the magnitude of sanctions imposed if compliance is not achieved. Since a prosecution is eight to ten times more time-consuming than an average factory inspection, it would be rational for the inspectorate to concentrate resources on information production rather than prosecution, especially when the former is more likely to increase compliance (Veljanovski, 1983:84-86).

According to Veljanovski, the enforcement strategy of the British Factory Inspectorate has several features that have persisted for the 150 years of its existence. First, the commitment of most of its resources to inspections. Second, reluctance to prosecute and a preference for inducing compliance by advice, persuasion, and negotiation. Third, decisions to prosecute are based on a conception of fault liability. Finally, a tendency to prosecute after an accident. Veljanovski contends that three economic factors help to explain this pattern of enforcement: overinclusion, limited enforcement budget, and enforcement costs (89). He concludes that many of the enforcement practices of the Factory Inspectorate can be explained in terms of an economic or cost-minimizing response to the law, particularly the problem of overinclusion (93).

Helen Jones examines the role of the inspectorate in inter-war Britain. She discusses the role of the factory inspector in improving safety, health and welfare standards and in shaping the climate of opinion over what were 'acceptable' standards. Jones

argues that a more appropriate definition of the function of the factory inspector is that of instructor or teacher. Inspectors transmitted values and standards by emphasizing the importance of a safe and healthy working environment and what this meant in practical terms. They provided a resource of knowledge and skills which legitimated them to both employers and workers. Finally, the inspectorate evaluated the standards maintained in a factory, detected violations, and judged the appropriate action to be taken (1985:224-225).

According to Jones, a number of factors worked to reduce the effectiveness of the inspectorate's work. First, the educative work of the inspectors was hampered by the environment in which it took place. That is, a factory strives towards production not education. Second, the inspectorate had to present the working classes with information that was inexpensive and not patronising. Third, the reliance on prosecution presented problems. That is, detecting breaches of the law could be difficult when visits were often cursory. Moreover, there was often a reluctance to prosecute and sentence within the courts. Fourth, new processes and manufactures in the 1930s increased the likelihood of accidents. Finally, a great deal of blame was placed on the workers for causing accidents (234-235). Jones concludes that the great disparity between the aims and achievements of inspectors reflected fiscal restraints, and the absence of agreement over safety, between factory inspectors and the courts, and employers and workers (234).

Punishment versus Persuasion

Braithwaite examines persuasion versus punishment in the enforcement of coal mine safety. According to him, inspection and the prevention of safety violations both save lives. However, we do not know whether it is the persuasive or punitive aspects of an inspector's strategy that both protects life and limb and increases adherence to health and safety laws. While there will probably never be a satisfactory answer because persuasion and prosecution can not be separated out from one another Braithwaite examines the merits of each strategy (1985:84).

While persuasion is the best tactic when there exists a willingness to comply, punishment is the best strategy when good will is lacking. In fact, an uncompromising punitive strategy can lead to an "organized culture of resistance" that facilitates the sharing of knowledge about the methods of legal resistance and counterattack (Braithwaite, 1985:99-100). Moreover, the merits of punishment and persuasion depend wholly on the frequency of contact between the inspector and management. According to Braithwaite, persuasion is a more potent strategy where there exists an ongoing relationship (115). Persuasion is also a more efficient use of scarce resources. According to Rhodes, a fundamental reason why the British inspectorate declined in its prosecutorial stance was that they had devoted enormous resources to mounting prosecutions, only to find that the courts imposed token penalties on the offenders (cited in Braithwaite, 1985:109). The trick of successful regulation, then, becomes that of imposing punishment

when needed, without undermining the capacity of inspectors to persuade. Since punishment depletes so many resources, it must be reserved for those instances in which it will be most effective (1985:117). On the other hand, there are troubling moral concerns about persuasion as an enforcement strategy. Persuasion really means negotiation, or a give and take relationship. Should the law be negotiable? (112). Negotiation is not the normal way for a sovereign state to control private industry. Unfortunately, as the adversary gains power more nearly equal to that of the controller, control through negotiation becomes the preferred option (114). Braithwaite contends that when an offence is knowingly perpetrated and it poses some significant threat to human life or limb, enforcement should be non-negotiable and non-discretionary (1985:141). He argues that prolonged experience in the field tends to shift inspector's sympathies in favour of business. Inspectors are coopted by business. That is, no one likes to be an ogre surrounded by people who can barely conceal their contempt for you. Interpersonal pressures tend to keep an inspector "reasonable" (95; also see Kelman, 1981:184). Moreover, experience in the field tends to teach these enforcement officers that stereotypes of bad manufacturers are often wrong and that preconceptions of an irreconcilable conflict of interests between safety and profits are often displaced (1985:96). Finally, inspectors learn in practice that when dealings with employers are conducted on the basis of assumptions that they are responsible and have a will to comply, greater compliance results than through

dealings under assumptions of bad faith (1985:95). According to Diver, the problem with discretionary punishment is the gross abuse of discretion. The biggest problem is that inspectors will be coopted by business into a nonpunitive stance. It is very difficult for regulatory agencies to limit the discretion of inspectors (cited in Braithwaite, 1985:137). Braithwaite contends that punishment and persuasion are based on fundamentally different models of human behaviour. Punishment presumes humans to be rational actors who weigh the benefits of noncompliance against the probability and costs of punishment. Persuasion presumes man to be reasonable, of good faith, and motivated to heed advice. Any philosophy or theory of regulation that limits inspectors to either strategy will significantly limit the effectiveness of inspection (100).

Finally, Braithwaite argues that inspectors must have the wisdom, diplomacy, and incorruptibility in exercising the choice between punishment and persuasion. Moreover, he concludes that each society must find a policy which optimally combines persuasion and punishment techniques. That is, a policy which embodies too much punishment would only "so sap the will to comply, so sour relationships and sabotage the inspectorate's capacity to persuade, that behaviour would become less rather than more safe". On the other hand, a policy that embodies too much persuasion would undermine the deterrent symbolizing of harm, the rehabilitative and incapacitative functions of punishment that compliance would also worsen. Moreover, compliance is most likely successful when the

regulatory response can be elevated. When governments realize that the only way to make the best use of scarce enforcement resources is to negotiate a level of regulatory intrusiveness that matches the offenses committed. There is a need for a pyramid of severity of regulatory orders and an overlapping pyramid of sanctions. Prosecution is a very valuable tool which should neither be underutilized nor overutilized in the enforcement of safety (186-187).

Compliance Strategy or Bargain and Bluff

In a study of pollution control, Hawkins examines the role of the inspectorate and their use of compliance strategy. What is understood as compliance depends upon the nature of the offence and the resources and responses of the regulated. According to Hawkins, compliance is dynamic and abstract, embracing action, time, and symbol. The capacity to comply is both evaluated in moral terms and negotiable. In fact, attitudes are judged as much as activities. Planning is as important as building and intention is as important as action (1984:109). Offenses may be tolerated on an understanding that there will be conformity or compliance in the future. It is an ideal state towards which an enforcement agent works. Hawkins contends that a recognition of the legitimacy of the demands of an enforcement agent expressed in a willingness to conform will be taken as a display of compliance in itself (126-127).

According to Blau, the essence of a compliance strategy is the exchange relationship (cited in Hawkins, 1984:122). Bargaining is

central to enforcement in compliance systems and control is derived from some sort of consensus (Schuck cited in Hawkins, 1984:122). Bargaining implies the acquiescence of the regulated with a compromise from the rigours of penal enforcement. The offender has goodwill, cooperation and conformity to the law to offer, while the inspector has forbearance and advice to give (Hawkins, 1984:122). Bargaining is possible only because the law need not be formally enforced (Hawkins, 1983:50; 1984:123). According to Hawkins, enforcement in a compliance system is founded on reciprocity or bargaining (1984:127). Bargaining continues throughout compliance strategy and prosecution is only used as a last resort (1983:49).

In negotiation there are a number of assumptions made and clear patterns to the use of discretion which reflect both the personal judgement of the inspectorate and shape the enforcement process (Hawkins, 1983:48). First, most polluters are regarded as 'socially responsible⁶'. Second, enforcement agents expect a measure of resistance to their efforts. Their hesitancy is justified on the basis that it would cost money to adhere to the law (1983:44; 1984:111). In fact, economic incapacity is recognized as a 'genuine' reason for non-compliance (1983:46; 1984:112). Inspectors categorize offenders into those more able and less able to comply, the effect of which shapes the enforcement relationship. Those thought more able to comply are treated with greater stringency and less tolerance of delay or evasion. There is in effect a judgement of an offender's co-operativeness

(1984:113). According to both Kagan and Stjernquist, another assumption with profound implications for enforcement behaviour is that employers are sensitive creatures whose feelings may be easily bruised if urged to do too much too soon (cited in Hawkins, 1984:115). According to Nicholson, cooperation and compliance can not be established in an atmosphere of suspicion and distrust that a strict application of the law dictates (cited in Hawkins, 1984:115). Inspectors are to be both 'reasonable' and 'patient' in their strategies to secure compliance with the law (Hawkins, 1983:47; 1984:115).

While a compliance strategy is expressed by various negotiating and bargaining tactics organized over a period of time to secure compliance, it is important to recognize that prosecution still plays a very important role to this approach of enforcement (Hawkins, 1983:39). Hawkins suggests that prosecution in a compliance system is valuable not merely as a sanction, but as a threat, because the threatened sanctions can be made to appear more serious than they are (1984:118). In fact, a significant part of the control exercised by enforcement officers is derived from the offender's lack of knowledge of legal provisions and procedures, the policies and practices of the authority, and their ignorance of the enforcement officer's power to initiate prosecution. This lack of knowledge offers scope for the use of what Hawkins refers to as "bluff" (1983:61). The inspectorate may threaten the use of procedures or sanctions that they do not intend to employ or are not legally entitled to use (1983:62). According to Hawkins, the

widespread reliance on bargaining, threatening, and bluffing to achieve compliance produces results because these techniques are exercised against a backdrop of the criminal sanction (1983:68).

W.G. Carson argues that the enforcement of factory legislation conforms in several respects to white-collar crime⁷ (1970:387). Factory legislation expressly provides criminal sanctions for its enforcement. Offenders may be fined or imprisoned for up to three months. Responsibility for the enforcement of this legislation rests with the Inspectorate of Factories. According to Carson, inspectors did not see their role as primarily that of policing or apprehending offenders and securing their punishment. Rather, they perceived their function to be that of securing compliance with the health and safety legislation so enacted. Concerned with securing an offender's compliance rather than their punishment, they chose functionally efficient⁸ methods of enforcement. According to Carson, the enforcement agents' extensive use of non-punitive, administrative procedures and infrequent prosecution may have been derived from a systematic bias which favoured employers as an occupational group invested with high social status (1970:388-395).

I think Bartrip and Fenn are exactly correct when they state that the law can not be viewed in isolation from those who hold the official power to administer it. The role of the inspectors, their successes and failures are crucial in an assessment of health and safety legislation. Moreover, it is valuable to review the literature on the inspectorate. There seems to be a common consensus that enforcement agents work under considerable

constraints: economic, legal, and political. They all directly or indirectly discuss two models of enforcement: persuasion versus prosecution. They all seem to agree that persuasion is almost always resorted to the virtual exclusion of prosecution. And whether it be factories, mines, or water pollution, all of these authors provide theories as to why persuasion wins out over prosecution.

Arthurs is exactly correct that inspectors contributed to new legislation and improved administrative arrangements. They did lay the foundations of modern administration and social policy. Braithwaite and Hawkins are completely correct that a combination of strategies must be used for legislation to be successful. Persuasion or compliance strategy is optimal against the backdrop or threat of criminal sanction. I do argue, however, that whatever strategy accomplishes the initial aims and goals of the legislation suggests success. Carson's account of factory crime is both compelling and problematic. I have difficulty with his notion of conventionalization, white-collar crime, and the class power that determined each. His conceptualization of power and the lines he has drawn between manufacturers, inspectors, and the working-class are just too simplified. That is, his theory does not sufficiently account for both the diversity and shifting alliances between the employer and employee classes, and the inspectorate'.

We can learn from this literature in our approach to Ontario. We should build on previous work. This analysis gives us some insightful categories and tools to employ in our approach to

Ontario. First, we can examine the two ideal models of enforcement: prosecution and persuasion. Although they are seen as separate models, they were often employed as integrated enforcement tactics by the inspectorate. Second, we can look at the constraints to which Ontario inspectors were subject. We can ponder the discretionary nature of their job and the subsequent threat of cooptation. Finally, we can examine their roles as teacher, providers of information, and the bargaining tactics so employed. However, we have to look at Ontario in its own specific historical context. This literature helps us to theorize about the inspectorate in nineteenth century Ontario but it only provides us with typologies, possible theories and possible categories. I believe this analysis lays the groundwork and provides insight for evaluating Tucker's account of the implementation of the Ontario Factories' Act of 1884.

1. According to Carson, factory legislation in this era was seen to have important effects upon the competitive structure of the textile industry in the equalization of the conditions of competition. Moreover, effective regulation could possibly play a significant role in the creation of a workforce which would adapt satisfactorily to the unaccustomed discipline of factory production (Carson, 1979:44-45).

2. For example, after the passing of the Mines Act of 1842, the Home Office received many complaints from families who could no longer support themselves since women were banned from pit work. There existed little alternative employment in many of the remote mining communities (P.R.O. H.O. 45, O.S, 511 as cited in Bartrip and Fenn, 1980:183).

3. For example, a prosecution under the 1833 act had to be brought within fourteen days of the offence. Given the inspector's limited resources, many manufacturers could not be prosecuted within this time constraint even if detected breaching the Act (Bartrip and Fenn, 1980:182).

4. As contemporaneously shown within the general system of criminal justice, even the most extreme penalties did not deter crime or the violations of industrial standards, given the improbability of complaint by insecure employees, the difficulties of detection and proof, and the intimate association of the local magistracy with factory owners. Any system based solely upon criminal sanctions would not have succeeded (Arthurs, 1985:104).

5. According to Veljanovski, the more overinclusive the law, the lower the compliance rate. Overinclusion leads to a high level of law-breaking and the need for more severe and intensively enforced penalties. However, adoption of such a prosecutorial strategy will not necessarily be the best means of achieving compliance nor will it involve the most efficient use of public resources (Veljanovski, 1983:81).

6. According to Hawkins, it is not that the socially responsible do not commit offenses but rather when they do, it is viewed as an accident (1984:110-111; 1983:45).

7. Carson argues that there seems to be no mutually agreed upon definition of 'white-collar crime' in the literature. However, he cites both Sutherland and Aubert in his article. According to Sutherland, members of the upper socio-economic class may exhibit criminal behaviour and yet it is rarely dealt with as such. This emerges from a tendency of criminal justice systems to favour economically and politically powerful groups against the poor who comprise the bulk of the visible criminal population (cited in Carson, 1970:384). According to Aubert, even when white-collared crime is defined as crime in the law books, even when it is subject to criminal sanctions, it enjoys substantial immunity at the

operational level of the law (cited in Carson, 1970:384).

8. There was substantial agreement among inspectors that under normal circumstances, regular and repeat inspections, formal communications and occasional threats constituted the most efficient means of securing compliance (Carson, 1970:393).

9. In their critique of Carson, Bartrip and Fenn argue that manufacturers, the working-class, and the inspectorate are all heterogenous groups with different perspectives and world views. Moreover, at times manufacturers lobbied for protective legislation and at times there existed a great source of tension between enforcement agents and employers. Finally, the working-class did not always support legislation deemed in their favour. And, Carson's so-called white-collar legislation at times favoured the working-class and at times also subjected them as well to punishment.

Chapter 5

The Case of Ontario - Rethinking Tucker

Eric Tucker examines the law and politics of occupational health and safety legislation in Ontario from 1850 to 1914. His work represents the most comprehensive contemporary analysis of health and safety legislation in late nineteenth and early twentieth century Ontario. He analyses the Ontario Factories' Act of 1884 paying close attention to the role of gender, class, and the state in the formation of this statute. More specifically, he devotes a chapter in his book to the implementation of Ontario's Factory Legislation from 1886 to 1900. According to Tucker, the most crucial question is: what extent was the power of the inspectorate exercised for the benefit of the working-class (1990:138)? In other words, what did Ontario workers stand to gain from the implementation of this Act? Did the conditions and terms of this statute diminish health hazards in the workplace?

Tucker argues that the implementation of Ontario Factory legislation was largely inoperative due to the enforcement procedure of the inspectorate. The techniques employed by the four Ontario inspectors were subject to many external constraints: political, administrative, and legal, created against a background of class and gender politics. Both class power and the inspectors world views dictated the persuasive stance they would take with regard to health and safety regulation in the workplace. He contends that the selection of the compliance model of enforcement in conjunction with the construction of the meaning of compliance

in a way which tolerated 'normal' industrial risks signified that both the ideology and practice of health and safety legislation was subordinated and made compatible to industrial capitalism. He ultimately argues that Ontario workers were unable to get the Ontario Factories' Act enforced to their satisfaction or to significantly alter the contours of the capitalist industrial order and the state institutions which supported it.

In this chapter, I give such central importance to Tucker because I disagree with his conclusions concerning the efficacy of the inspectorate; that is, I have problems with his views on the relative merits of persuasion versus compliance strategy, his examination of and the centrality he gives to class and class power, the inspectors' world views, and their enforcement procedure. I contend that there is merit to a persuasion strategy. Ontario's four factory inspectors had no special interest in treating employers leniently or in avoiding prosecutions, except in so far as alternative procedures promised achievement of their objective, which was not a high rate of prosecutions, but compliance with the law (Bartrip and Fenn, 1980:184).

Tucker's Theory Regarding Enforcement

According to Tucker, the enactment of health and safety legislation was a partial victory for working-class men as it signalled their ability to force the state to intervene and place limits on the excesses of capital (1990:137). But, it was only a partial victory because the implementation of Ontario's factory legislation was largely inoperative. The effectiveness of this

statute failed due to the enforcement procedure of the inspectorate. Tucker argues that a number of factors led them to choose persuasion tactics almost to the virtual exclusion of prosecution¹. A number of external constraints: limited resources, direct political controls on the inspectorate's behaviour, a hostile judiciary, and the legislation itself all contributed to the selection of persuasion over prosecution. Moreover, they were politically and legally created against a background of class and gender politics. These external constraints, however, provide only a partial account for the low rate of prosecutions; that is, class power, the inspectors' world views, and the meaning of compliance provide a more complete explanation for the lack of a penal response. He maintains that a compliance strategy was not the most effective means to achieve the aims and goals of health and safety legislation (137-176).

Tucker presents two enforcement strategies: prosecution versus persuasion. He recognizes that there has been a recent debate over enforcement tactics. The 'standard' account of factory legislation posits the ineffectiveness of factory regulation. It notes the failure of the inspectorate to prosecute employers. This is linked to a broader analysis of the limited ability of the state to regulate against the interests of capital, even when empowered to do so by legislation. Thus, we have Carson's 'conventionalization of factory crime' and subsequent class analysis. The essence of the revisionist critique claims that the standard account incorrectly assumes that compliance can only be achieved by

prosecution. The revisionists argue that the inspectors chose persuasion and bargaining as an alternative enforcement strategy because it was a more efficient use of limited enforcement resources (Tucker, 1990:144). In essence, Tucker equates prosecution with success. He argues against the revisionist critique and in favour of the 'standard' account of factory regulation.

According to Tucker, the efficiency or rationality argument is both a partial and misleading account of the decision not to adopt a more penal enforcement strategy. First, the resources devoted to enforcement of the Act were inadequate from the outset and the situation only deteriorated during the 1890s². They were only increased when Margaret Carlyle was appointed in 1895 as a female inspector of factories with a jurisdiction limited to women and children. A female inspector was justified on the basis that a woman would intuitively know more about the system of female labour than a man and would insist on a more strict observation of the law. The decision to limit the resources available for factory act enforcement and to give marginally greater resources to the enforcement of the special protections for women and children was clearly a political one, taken in the context of the class and gender politics of the period³. That decision constrained the inspectors' ability to enforce the Act regardless of the strategy they chose (1990:148-150). Second, the inspectors had to consider direct political controls on their behaviour and to deal with the administrative arrangements made for the prosecution of cases.

Although practices may have varied, there is evidence to suggest that the inspectors were required to consult with the deputy attorney-general before laying charges, and that the actual prosecution was left to the local crown attorney. However, it is not clear that this aspect constrained the inspectors' ability to prosecute. In fact, the evidence suggests that permission to prosecute was rarely sought by the inspectorate. Moreover, it is unclear whether the government gave the inspectors direct instructions with respect to the way they should enforce the Act (150-151). Third, the judiciary may have been hostile to the legislation which caused infrequent prosecutions. Tucker contends, however, that in Ontario judicial hostility does not provide a satisfactory explanation for the lack of coercive punishment (see also Tucker, 1984:254). Finally, he argues that the legislation itself may have created procedural hurdles which made prosecutions difficult to secure. That is, open-ended language, absence of objective standards, and the failure to deal with some of the more significant hazards in the workplace made persuasion the more attractive response. He argues that the external constraints on inspectors in Ontario while not clear, do not seem to have been as significant as in other jurisdictions. The clearest constraint was that of resources but Tucker believes that the abandonment of prosecution was not the most efficient response (1990:154).

While external constraints provide only a partial account for the low rate of prosecutions, Tucker argues that class power, the

inspectors' world views, and the meaning of compliance provide a more complete explanation for the lack of a penal response. Tucker examines the "imbalance of power between the risk creators, the risk bearers, and the regulatory authority" (155); that is, employers were able to successfully resist the inspectors' efforts at enforcement. For example, the inspectorate faced a difficulty of detecting violations and developing a network of informers. Employees were afraid of retaliation which might result in the loss of their jobs. Moreover, the Act required manufacturers to keep registers, to send notices when they occupied a factory, and to report serious accidents resulting in injury or death. The effectiveness of this method, however, depends on the willingness of employers to comply voluntarily with these provisions, and in most cases they did not. Tucker concludes that employers were able to influence the enforcement process through their power over workers and their ability to resist the inspector's ability to both monitor and achieve compliance in their factories (1990:155-158). Before examining Tucker's presentation of the inspector's world-views, it is necessary to introduce the four inspectors.

Although the Act came into force in December 1886, no arrangements were made for its enforcement until the spring of 1887. In April 1887, two amendments were introduced to the Act, one of which provided for the appointment of regional inspectors instead of the single inspector that was provided for in the original statute. Three inspectors were appointed: Robert Barber, a manufacturer from Toronto, James R. Brown, a mechanic from

Oshawa, and O.A. Rocque, an ex-alderman from Ottawa. Barber was assigned the western district, including Toronto west of Yonge Street; Brown was assigned the central district, including the eastern half of Toronto; and Rocque was assigned the eastern district⁴. According to Tucker, the heavily industrialized south-central region of the province was divided between two inspectors, one drawn from labour and the other from the manufacturing class; whereas, the less industrialized eastern and northern areas of the province, were assigned to Rocque, who seemed to be a patronage appointment (1990:138-142). There was no increase in the number of inspectors until 1895, when Margaret Carlyle was appointed female inspector of factories with a complete jurisdiction over female labour and a shared jurisdiction over matters relating to the employment of women and children in mixed settings (166).

While little is known about the backgrounds of both Barber, Rocque, and Carlyle, Brown's career as a labour activist was well documented. In 1872, he emerged as a labour spokesman in the nine-hour movement. He helped establish a branch of the Knights of Labor in Oshawa in 1882 and served as both secretary of the Oshawa Trades and Labour Council and chair of its legislative committee. He also had ties to the Liberal Party and acted as Oshawa correspondent for the Ontario Bureau of Industries after it began collecting labour statistics (Tucker, 1990:142).

According to Tucker, the inspectors' personal biographies influenced their "world-views"⁵. He contends that Brown represented working-class interests, Barber represented the

manufacturing class, and there were no significant differences in the views espoused by Barber, Rocque, and Carlyle. Based on class differences, Tucker juxtaposes the views of Brown against Barber, Rocque, and Carlyle and maintains the "triumph of Barberism". That is, he argues that Barber's belief system was predominant among the inspectors and contributed to the selection of persuasion over the more efficient prosecutorial stance.

Tucker examines four components of the inspectors' world views. First, their enforcement tactics were influenced by their beliefs concerning accident causation. Accidents were characterized as either preventable or non-preventable. Preventable accidents were those that inspection might have prevented whereas unpreventable accidents were the result of worker carelessness or simple misfortune. According to Tucker, Barber believed that most accidents were the result of worker carelessness; whereas, Inspector Brown believed that most accidents were due to either noncompliance with the Act or the result of new processes and new technology (1990:160). Second, Barber believed that the overwhelming majority of employers were willing to co-operate with the inspector in eliminating violations or hazards pointed out to them by the inspectors. Given the belief that employers were socially responsible, Barber proceeded to concede his role as that of educator and provider of information. Violations were a result of employer incompetence or unfamiliarity with the law rather than deliberate misconduct. According to Tucker, in a world in which employers are co-operative, a

persuasive strategy of enforcement is reasonable. Prosecutorial strategy would only serve to destroy the trust upon which the relationship is built. It was on this basis that the inspectors came to see punishment as a last resort (161-162). Tucker further argues that Barber, Rocque, and Carlyle believed that health and safety in the workplace mutually benefited employers and employees alike. Brown, however, recognized that capital and labour did not share common interests. Finally, the fourth component of their belief system concerned women and children. In this respect, Tucker contends that there were no significant differences between the four inspectors. They all denounced the evils of child labour and the need to protect women in the workplace (Tucker, 1990:165). These very values and assumptions seemed to have an impact on the pattern of prosecutions. According to Tucker, 29 of the 35 charges prosecuted related to child and female labour. He suggests that the inspectors' belief in the special vulnerability of women and children prompted them to indict offenders (1990:166).

Finally, Tucker argues that compliance came to be constructed in a way which benefited employers; that is, the inspectors defined compliance in a way that did not require employers to expend substantial money to improve their technology or work practices. First, he notes that Brown was more exacting than Barber. Second, Barber was generally more restrictive in his legislative mandate; for example, he narrowly interpreted the general duties clause which provides for the health and safety of all employees. Third, he argues that there was a tendency for inspectors to become

sympathetic towards employers and their compliance problems after they have spent time in the field. According to Tucker, the effect of these factors on the standard of compliance imposed by the inspectorate is indeterminate. The inspectors indicated that they required improvements to be made and claimed that significant improvements were taking place as a result of their efforts. But Tucker charges that we should not place too much weight on their self-evaluations "given the incentive to promote a positive view of their work" (167-171).

Tucker concludes that the enforcement of factory legislation can not be explained on the basis of instrumentally rational decisions taken by the inspectors. Rather, the techniques employed by the inspectors were subject to many external constraints: political, administrative, and legal, created against a background of class and gender politics. Both class power and the inspectorate's world views dictated the persuasive stance they would take with regard to health and safety regulation in the workplace. With the exception of Brown, the predominant view espoused that worker carelessness was the most important cause of accidents, employers were socially responsible, there was no fundamental incompatibility between the interests of labour and capital over factory regulation, and women and children required special protection. From this perspective, educating both workers and employers seemed to be a reasonable approach. The inspectorate accepted the intensification of the labour process and expected workers to adapt to it even though they knew these changes resulted

in more workplace injuries. They saw the state's role as reacting and limiting the excesses of the industrial capitalist system, but not controlling its normal consequences. And the excesses of this system related almost exclusively to women and children. Tucker contends that the selection of the compliance model of enforcement in conjunction with the construction of the meaning of compliance in a way which tolerated 'normal' industrial risks signified that the ideology and practice of occupational health and safety regulation was both subordinated and made compatible with the dominant ideology and practices of the industrial capitalist order. Tucker argues that Ontario workers were unable to get the Ontario Factories' Act enforced to their satisfaction or to alter the contours of the industrial capitalist social formation and the state institutions which supported it (173-176).

Rethinking Tucker

On one hand, Tucker conducts a thorough investigation of Ontario's factory legislation in the late nineteenth century. In fact, I accept most of Tucker's substantive claims in recreating the 1880s in Ontario. Throughout, he gives excellent evidence to support his arguments. I agree that the inspectors took a strong persuasive stance in their enforcement tactics. Moreover, I acknowledge that enforcement resources were scarce and were only increased due to the gender politics functioning in this time period. I agree that the legislation itself created procedural hurdles making enforcement difficult. There were many "loopholes" in the Act which made prosecutions difficult to secure. I believe

Tucker is exactly correct when he claims that the extent of political controls on the inspectorate's enforcement strategies are not clear. I also agree that the judiciary did not provide substantial hurdles in securing punishment (see Tucker, 1984). Finally, I accept that this legislation was not enforced in the manner in which the working-class wanted. While I agree with Tucker regarding these issues, some of his claims need to be rethought.

Tucker claims to investigate the revisionist critique of factory legislation. Yet he argues throughout that persuasion is not the best strategy to achieve the aims and goals of health and safety legislation. Most simply stated, Tucker equates prosecution with success. Since the inspectors in Ontario did not take a strong prosecutorial stance, they failed in their mandate to exercise their power to benefit the working class. I disagree with Tucker's conclusions. I think there is merit in a compliance strategy. While I do not think that this legislation was enforced in the manner in which the working-class wanted, I do believe that workers did benefit from the inspectorate and the subsequent terms of this Act. I recognize that the inspectors accomplished both successes and failures. Tucker has proved himself adept at reciting the negative aspects of the inspectorate's work but has not conceded to report their successes. In other words, Tucker is accurate in the evidence he reports but there is more to the picture than he paints. That is, he has blinders on with respect to the contribution of persuasion. I will re-examine the

inspectors' reporting structure, mandate, information network, world views, enforcement procedure, their contribution to the "spin-off" of amendments, and class power.

Class Power

Tucker claims that the inspector's choice of enforcement strategies was influenced by the whole notion of class power. Certainly there is an imbalance of power between employers and employees. Moreover, the evidence Tucker cites to support his arguments is accurate. I have difficulty, however, with Tucker's assessment of both the working and employer classes. First, I do not accept Tucker's presentation of the manufacturing class as a homogenous and unified group. Second, his discussion of employee intimidation misrepresents the working classes as both fainthearted and timid. This argument, in effect, negates both the achievements and struggles of the working classes.

While some employees were afraid to bring forth health and safety concerns or "complaints", many working-class men vehemently voiced their concerns. In the Royal Commission on Capital and Labour in 1888, close to 1800 people testified during the year and a half of hearings in cities and towns in Ontario, Quebec, New Brunswick and Nova Scotia (Trofimenkoff, 1977:68). While one hundred and two women witnesses were questioned and seventy-three chose to testify anonymously, only thirty of the almost 1700 male witnesses wished to hide their names (Trofimenkoff, 1977:69)⁶. These figures suggest that most working-class men were not afraid to be publicly questioned about the conditions of working-class

life. Moreover, these men were forthright in voicing their complaints. For example, Joseph Hunt, a moulder from Toronto is questioned:

Q: What is the general condition of the shops to your knowledge?

A: Some of those I have been working in are not fit for a horse to stop in.

Q: Do you find them badly ventilated?

A: Yes; and bad for the winter weather.

Q: From the cold and wet?

A: Yes; cold and wet.

Q: The shops are not sufficiently protected against draughts?

A: No.

(RCRLC, 1888:148)

According to Hunt, moulding shops were badly ventilated, cold and wet, and not protected against draughts in winter. In fact, Hunt charged that these establishments were not fit for animals. Hunt was very candid in describing the health and safety concerns of moulding shops in Toronto. Similarly, Richard Somerville, a Cooper from Windsor, remarked that there was "lots of ventilation, because you can see the snow drifting in" (RCRLC, 1888:400). This comment suggests that his shop was rather cold during the winter season. While most working-class women were afraid to publicly voice their concerns, most working-class men were quite frank in their discussions of health and safety hazards in the workplace.

The employer class was also not a homogenous group. Tucker claims that employers were able to influence the enforcement process through their power over workers and their abilities to resist the inspectors' efforts to secure compliance. For example,

he argues that manufacturers failed to keep registers, to notify the inspectors when they occupied a factory, and to report accidents (1990:156-158). While I unequivocally believe that there were manufacturers who resisted the inspector's efforts, it is simplistic to view all manufacturers as a homogenous group.

Factory owners ranged from employing hundreds of operatives on several premises to employing little labour and capital (Bartrip and Fenn, 1980:184). In fact, the inspectors report that in the smaller factories there was a greater need for inspection concerning health, safety, employment of children and hours of labour (Inspectors of Factories, 1890:1). Generally the larger the establishment the better protection offered therein (Inspectors of Factories, 1889:9,29; 1891:1; 1892:19). Moreover, the inspectors reported that there were improvements in the newer factories erected and that most conformed to the standards of the Factory Act (Inspector of Factories, 1895:13; 1896:24). For example, Barber comments:

I am glad to be able to report that in the greater number of new factories erected during the last five years every consideration has been given to the health, safety and comfort of the operatives as to light and lighting, heating, ventilation, protection against fire, closets, guarding elevators and machinery, and in places where males and females both are employed separate closets, dressing and dining-rooms are provided

(Inspector of Factories, 1893:6)

In the new factories, manufacturers gave every consideration to the "health, safety and comfort" of their employees. These newer establishments conformed in most respects to the Factory Act. Moreover, both Brown and Barber discuss the differences in

manufacturers and their work practices. For example, Brown states:

While the great majority of employers may be willing to attend to any complaint of their workers, and feel somewhat slighted at complaints not being made personally, and who, I doubt not, would consider it cowardly to discharge a worker for making any reasonable complaint, there are others who, when they hear of complaints being made, do not scruple to express the threat that if they only knew the parties who complained they would be discharged at once

(Inspector of Factories, 1891:21)

Brown recognized that factory owners were not a homogenous group. While the majority of employers were eager to attend to grievances, were insulted if the complaints were not made personally, and considered it dastardly to dismiss an employee for voicing health and safety concerns, there were others who threatened dismissal. Similarly, Barber comments:

Some employers provide a stove for heating tea, some tea, and others the milk and sugar as well. Some of the foregoing benefits are beyond the power of the Factories' Act to compel and are purely voluntary on the part of employers...so different from establishments where suspicion and ill-will prevail

(Inspectors of Factories, 1893:6).

Barber believes there exist vast differences between manufacturers. Some go well beyond the provisions of the Factory Act and provide their employees with amenities. This is in sharp contrast to those establishments in which "suspicion and ill-will prevail". Both Brown and Barber, who had regular contact with factory owners, attest to the differences in manufacturers and their practices.

Finally, some manufacturers were extremely kind and generous to their employees. For example, Joseph Flavelle who controlled the Toronto factory of the William Davies Company, is described by Bliss:

He was a pillar of the Methodist Church, prominent in its national affairs, but not too busy to have given

Sundays and Saturday evenings teaching Sunday School. He was a capitalist with a conscience, a millionaire who knew the meaning of stewardship. A man of exceptional integrity and ability.... (1992:xiii).

Flavelle was a millionaire and a man of conscience, probably motivated by religion more than anything else in his daily routines⁷. Moreover, he was a generous employer who continued the profit-sharing which the original owner had begun. A minimum of seven and a half per cent of each year's profits were set aside for cash bonuses, payable partly according to salary and merit. The huge profits of the 1890s meant that the workers were receiving bonuses of upwards of 25 per cent of their wages. Moreover, according to Bliss, Flavelle maintained excellent working conditions in his packing houses. His safety record enabled him to get accident insurance at one-third the standard rate for packing factories. Moreover, in 1900, Flavelle argued that the cooking and canning rooms had to be enlarged to protect the health of their men. The same year he had a separate building erected for employees' lunch and rest rooms (Bliss, 1978:117-118). The condition of Flavelle's factories and his practice of profit-sharing suggest the progressive belief system by Flavelle. But it also illustrates that some employers in the late nineteenth century made every effort to secure both the health, safety and comfort of their employees. Similarly, as argued in chapter two, Joseph Penman, the owner of Penmans Limited, in Paris Ontario, maintained both a clean and safe working environment and was generous to his employees.

Penman and Flavelle may have been anachronisms in late nineteenth century Ontario. These two employers were generous to

their employees. But I believe these two men exemplify the point that factory owners were not homogenous in their actions. Some were munificent to their workers and some were not. Even more importantly, some paid attention to health and safety hazards while others did not. Manufacturers were a diverse group and we must be careful to treat them as such.

The Ontario Inspectorate: Reporting Structure, Mandate, and Information Network

From 1888 to 1900, four inspectors toured factories throughout Ontario in order to implement health and safety legislation on the statute books. In examining the inspectorates enforcement procedure, it is very important to view their work as the representation of a political event and process. According to Abrams, historical development is a product of structured human agency. People make history both individually and as members of social groups. But our making of history is formed and informed by the social conditions we inherit from the past, and the prior formation of our own identities and capacities which are shaped by broad social structural forces and by "contingencies", over which we have more or less control. "Generational" and "biographical contingencies" involve the social conditions under which we come of age; the order of our birth and the condition of the household economy in which we develop, the idioms, discourses or social ideologies available for us to make sense of our situation, and of course accidental forces. Historical events must be understood as particular configurations in an incessant dialectic of agency and structure (Abrams as cited in Curtis, 1993:51-52). We will examine the Ontario Inspectorate, their mandate, reporting structure, world

views, and enforcement procedure in terms of both social agency and structure to determine if their power was exercised for the benefit of the working-class.

Did the four Ontario inspectors have a reporting structure and were they subject to supervision with respect to their enforcement procedure? All four inspectors were required to submit their annual reports to the Minister of Agriculture (Inspector of Factories, 1889-1901). It is evident from their reports, moreover, that there were instances in which the Minister of Agriculture gave them guidelines with respect to enforcement of the Act. For example, in 1900, Rocque "received instructions from the Minister of Agriculture to investigate some complaints from the Mayor of Casselman regarding the dangerous condition of a saw mill and factory in their village" (Inspector of Factories, 1901:18). In addition, the inspectors make comments in their reports which suggest that they received some form of instruction and supervision from the Deputy Attorney-General. For example, Brown states that "in accordance with instructions from the deputy Attorney-General, I have where non-compliance with [thel] Act has resulted (sic), lodged an information and left the matter in the hands of the local authorities" (Inspector of Factories, 1890:19). Similarly, in 1891, he reports:

In all the prosecutions I have consulted the Deputy Attorney-General, and have submitted to him all cases of infraction of the Act from whatever cause...In one case the Attorney-General's department considered that the penalty inflicted had not been commensurate with the magnitude of the offence, viz.: the deliberate and continued employment of so many females for a longer period than allowed by law. I acknowledge to have erred in prosecuting in only three of the cases. In future, wheresoever I find females employed for a longer period

than that authorized by the Act, I shall prosecute in every case (Inspector of Factories, 1891:21).

In both of these examples, not only did Brown receive instruction and consult the Deputy Attorney-General for each infraction of the law but he was reprimanded for not prosecuting in each case. Finally, there is evidence from their reports that the inspectors received some sort of general instruction from the "government". For example, an amendment in 1895 endowed the inspectors with the power to order guards for any dangerous machinery found in manufacturing establishments. With respect to this amendment, Barber writes:

...this leaves a great deal to the judgement of the inspectors, and may in some applications of it be the means of a difference of opinion arising between them and employers; but I am sure that when such differences do arise, and the employers can give good reasons why such dangers should not be protected, the inspectors will be reasonable, for they understand it to be the wish of the Government that the Factories' Act shall be enforced in an efficient manner, with as little friction and annoyance as possible (Inspector of Factories, 1896:7).

This statement suggests that the "Government" advised the inspectors to be reasonable in their approach and to enforce the Act with as little conflict as possible. Similarly, Rocque reports:

...in my district, and I believe in all other districts, the employers have not only accepted the orders and suggestions of inspectors, but have also given their assistance to the inspectors to enforce the requirements of the Act for the protection to employees. This is due to the reasonable, equitable and discreet action of the inspectors acting under the advice and instructions of the Government, who always desired to secure all possible protection to the employees without injustice to the employers (Inspector of Factories, 1901:16).

The "Government" has instructed the Ontario inspectors to enforce the Act in a manner which will give the utmost protection to employees while still being fair to employers. This strategy has resulted in employers not only complying with the law but assisting the inspectors in their attempts to implement the Act. In other words, the inspectors did have some form of reporting structure and supervision. They had to report to the Minister of Agriculture and they were advised by both the Attorney-General and the "Government" on their enforcement procedure. They were instructed to secure all possible protections for employees and to prosecute violations of the Act; but, in order to keep relations harmonious between employees, employers, and the state, they were also advised to be discreet and reasonable in their enforcement tactics.

Not only did the Ontario inspectors receive some form of guidance and supervision from the state, but the government also facilitated both the establishment of contacts and an information network with respect to the principles of inspection and procedure. Throughout their reports, Barber, Brown, and Carlyle thank the government for allowing them to attend the Annual Conventions of the International Associations of Factory Inspectors of North America (Inspector of Factories, 1891:15; 1894:13; 1896:12; 1898:22). For example, Barber states:

Through your kindness I was permitted to attend the Ninth Annual Convention of the International Association of Factory Inspectors of North America, held at Providence, R.I., in September, where I was pleased to renew my acquaintance with Inspectors, ladies and gentleman, whom I had met at former conventions, as well to meet with some others for the first time (Inspector of Factories, 1896:12).

At this conference, Barber established contacts with other

inspectors, male and female, whom he had met at previous conventions. Similarly, he reports on making the acquaintance of nearly fifty inspectors from different states, eight of whom were females, at the fourth annual convention of the National Association of Factory Inspectors of North America (Inspectors of Factories, 1891:15). Not only did these conferences establish contacts with other inspectors working in North America but they also provided a valuable information network. Papers designed to improve the condition of workers in factories, comparisons of various Factories' Acts, suggestions for improvements in the Acts, and exhibits of various safeguards on machinery include only some of the valuable information exchanged and gleaned at these conferences. As Carlyle so aptly states, "By the comparison with the laws of other states, and the experience of officers entrusted with their enforcement, these gatherings of factory inspectors are conducive to much good, and bring about an interchange of views on subjects which might not otherwise be obtained" (Inspector of Factories, 1898:22). Finally, it is important to acknowledge that all four inspectors were familiar and made reference to British law and methods of enforcement (Inspector of Factories, 1889:7-8; 1890:7,9,20-21; 1891:12,14; 1899:18).

It is obvious from their reports that the Ontario inspectorate had some form of supervision and an established information network. But did they have a common mandate in their enforcement procedure? Moreover, were they in communication with one another and did they attempt uniformity of action in their perception and tactics of enforcement? It is evident from their reports that these four officers were in contact with one another and at times

assisted each other in their inspection duties (Inspector of Factories, 1890:5; 1894:19; 1899:10). For example, Barber accompanied Carlyle through some factories in Toronto to familiarize her with her duties as inspector (Inspector of Factories, 1896:9). Within the same report, Carlyle acknowledges the valuable assistance she received from both Brown and Barber. They gave her the full benefit of their experience which made her work much easier than it otherwise could have been (Inspector of Factories, 1896:26). Although these four inspectors did communicate with one another, Rocque believed

that it would be very beneficial if a general inspection of the main factories throughout the Province could be made by the three inspectors together, so as to fully determine the extent of protection required and necessary to all machinery in use, and its character. It would also establish a uniformity of action in the operation of the Act which would strengthen the hands of each inspector (Inspector of Factories, 1896:20).

He recognizes that consistency within the inspectorate will increase their power and consequently will further diminish health and safety hazards in the workplace. Finally, while the three male inspectors had a similar mandate with respect to enforcement, Carlyle's duties were restricted to female labour⁸. She was paid half as much as the male inspectors and given more work. That is, while the male inspectors each had their respective districts, Carlyle's mandate took her all over the province (Inspector of Factories, 1896:23; 1898:18). While other female inspectors existed in North America, the majority of inspectors were male. Did the difference in gender, between male and female inspectors, effect any difference in their enforcement procedures?

The Inspectors' World Views

Tucker claims that the inspectors' enforcement strategies were influenced by their belief systems. He argues that Brown represents working class interests, Barber represents manufacturing interests, and Carlyle and Rocque fit neatly into Barber's world view. In other words, Tucker juxtaposes the view of Brown against Barber, Rocque, and Carlyle and proclaims the 'triumph of Barberism'. I believe his analysis is over-simplified. First, I disagree with Tucker's interpretation of Barber's world view. Barber's belief system is more complex than Tucker presents. In fact, Rocque represents the archetype of 'Barberism' more so than Barber himself. And Carlyle, interpreted the law quite differently from Barber and this effected a difference in their enforcement strategies. Moreover, I think we need to pay much more attention to the gendering of enforcement in this analysis. While there were a few female inspectors in North America, Carlyle represents the only female inspector in Ontario. Did the difference in gender between Carlyle and Barber, Brown, and Rocque effect a difference in their enforcement strategy? Finally, I do not think that such stringent lines can be drawn between Brown and Barber; that is, I do not believe the inspectors' world-views can be split so neatly down class lines, working-class (Brown) versus manufacturing interests (Barber). At times their ideas and belief system cross one another and then at times shift away.

Tucker argues that Barber believed that most accidents were the result of worker carelessness. While Barber spoke of worker carelessness he also recognized that their "intelligence and caution have saved them from injury" (Inspector of Factories,

1889:7). Moreover, he realized that many of the jobs were monotonous and thereby caused accidents. In fact, he suggested that workers should be allowed short rests at intervals to avoid such injuries (Inspector of Factories, 1889:8). Barber called for the training and instruction of workers beginning new jobs (Inspector of Factories, 1890:14). For example, he recorded:

Employers and their foremen should be particular in giving to what is termed a green hand all necessary instructions in regard to the special work allotted (sic) to them, point out the dangers, giving them cautions, and in many occupations to put them in charge of some experienced person of the same occupation for sufficient time to enable them to be safely entrusted alone (Inspector of Factories, 1890:10).

Barber was well aware of the potential problem of "green hands". Inexperienced workers were at a greater risk of accidents. This problem could be solved by training new employees. Finally, Barber recognized that new machines and new processes accompanied the advance of industrial capitalism and caused accidents which could not be foreseen (Inspector of Factories, 1890:13; 1895:15). In effect, Barber acknowledged the intelligence and carefulness of employees. He recognized that monotonous jobs, inexperienced workers, and the pace of scientific and technological discovery all caused accidents. These views of accident causation are espoused by Brown.

Just as Barber mirrors Brown's belief system, Brown at times mirrors Barber's belief system. Tucker argues that Barber and Roccue viewed the majority of employers as socially responsible and expressed relief that they were cordially received. Brown also remarked that he had been cordially received and that the majority of employers were desirous to conform to the Factory Act'

(Inspector of Factories, 1889:18-19). Moreover, Brown recognized that a number of complex elements caused industrial accidents. For example, according to Brown, "the man who was killed while holding a belt on a pulley with his foot was certainly criminally careless of his own life in so doing" (Inspector of Factories, 1894:12). This man was "criminally careless of his own life" which suggests a strong element of worker carelessness. Similarly, Brown reported that guards were taken off and an accident ensued (Inspector of Factories, 1894:13). Brown also acknowledged, however, that both the pace of work and inexperienced employees often caused accidents. For example:

In many cases carelessness is assigned as the cause of accidents, which doubtless is true where young people are employed attending to machines, who do not realize their danger, or where 'familiarity breeds contempt'. But there is also danger in keeping operatives attention on the stretch for an undue length of time, in tending dangerous machines (Inspector of Factories, 1893:14).

Brown recognized that dangerous machines, new employees, monotonous jobs, and long hours all contributed to carelessness and resulting injuries. Moreover, he realized that "while it may be true that many accidents are the result of carelessness, many are due to an excess of zeal in the interests of the employer, whereby unnecessary risks are taken, and work performed which was not expected of them" (Inspector of Factories, 1889:20). Brown argued that while many accidents result from worker carelessness, many also result from greedy employers and the pace and advance of industrial capitalism. These examples illustrate that Brown and Barber do coincide on some of their beliefs regarding employers and accident causation.

While Brown and Barber at times mirror one another, Carlyle does not fit neatly into Barber's world view. She interprets the Act quite differently from Barber, which in turn effects a difference in their enforcement tactics. Barber is more relaxed in his interpretation of the law. For example, he says, "I find it customary in many factories, to allow less than the full hour at noon and allow the time so gained on Saturday afternoon. When the employees have expressed themselves satisfied with this arrangement, I have not interfered" (Inspector of Factories, 1889:9). Barber indicates some degree of flexibility with respect to the arrangement of lunch breaks and working hours. Similarly, Barber asks, "Would it not be well to alter the law so as to make it optional with the females themselves, or those 18 years of age and upward, to decide for themselves on such a point as this?" (Inspector of Factories, 1891:6). Barber questions the right of the law to limit the hours of women. Should women not have the autonomy to decide their own hours? Finally, he states, "The strict application of factory law to workshops as regards hours, would in many cases be a hardship to both employers and operatives (piecework)" (Inspector of Factories, 1890:7). Barber believes that in the busy season of trade both employers and workers benefit from overtime. Women profit from increased wages whereas proprietors manage to meet their business deadlines.

While Barber advocates some degree of flexibility, Carlyle is quite stringent in her application of the law. For example, she discovered that some women had taken less than an hour lunch to allow for a shorter day on Saturday or to leave earlier in the evening. According to Carlyle, "in this matter the girls are not

the best judges. There is nothing so efficient as good legislation. It is through this source that work has been made less burdensome for the laboring (sic) people" (Inspector of Factories, 1896:25; 1898:20). Carlyle disagrees with Barber. She believes that factory legislation has been enacted for the benefit of the working peoples. It necessarily follows that "girls are not the best judges" with respect to the hours they should work. Carlyle is quite strict in her mandate. She insists that women are not to work more than ten hours a day and prosecuted for such a breach (Inspector of Factories, 1898:20). She emphatically states that "to extend leniency to those who persist in evading the provisions of the law is unjust to the law-abiding, and only serves to bring the law into disrepute" (Inspector of Factories, 1898:20). Carlyle believes that the law and its enforcers must be exacting.

Finally, of the four officers, Carlyle is the only female inspector for the province of Ontario. This factor makes it necessary to examine the influence of gender on Carlyle's belief system and enforcement strategy in comparison to the male inspectors. We must treat Carlyle, however, as both a woman and a woman of middle class background. Both the complexities and shifting alliances of gender and class cause a difference in Carlyle's belief system and approach to enforcement when juxtaposed against the three male inspectors.

The three male inspectors, Barber, Brown, and Rocque reported on their enforcement provisions designed to regulate female labour with relatively little or no commentary. When they do comment, however, they often note the tendency for female operatives to panic (Tucker, 1990:165-166), and they make several references to

religion. For example, Brown comments on the sad state of their Christian civilization which had dispensed "with God's law of justice" in allowing women and children to struggle in the market for their very subsistence (Inspector of Factories, 1895:23; 1899:15). Moreover, Barber reports on the female tendency to panic:

I have often heard it stated in accounts of disasters at sea, where females in their panic-stricken state attempt to save themselves from drowning by jumping overboard into the water, thus rushing to meet the fate they would avoid; so in the case of fire panics in factories, the first thought of some of the workers would be to jump from the windows, disregarding stairs, fire escapes, ropes, and other means of exit. It is but recently I read an account where a delicate girl in a factory fainted from physical weakness, and at once some half-a-dozen other girls near her fainted also, through sympathy; so in panics, one or two in a crowd more excitable than others, may in an alarm of fire in a factory, cause nearly all in a room to lose their coolness and judgment (sic) just at a time when they are most needed (Inspector of Factories, 1896:8).

From this account, Barber obviously believes that women are much more delicate and subject to panic than men. Both of these examples fit very well into the Victorian and religious notions of women's proper place in society. Women were emotionally fragile and in need of protection. Moreover, they were the moral guardians of the human race and good christian society defined women's proper sphere as quite separate from the secular world. While the male inspectors view female operatives as a "helpless" class, Carlyle recognizes the self-reliance of working class women.

Carlyle was warmly received by women due to her gender (Inspector of Factories, 1896:9; 1898:22) and she was the only inspector who applauded the spirit and independence of working-class women¹⁰ (Inspector of Factories, 1895:26; 1899:26). For

example, she says:

I have always been deeply impressed with the feeling that woman's industrial independence is dependent upon herself. The healthy spirit of confidence that exists among the working women to-day serves more than anything else to raise her to a higher standard of intelligence and morality. It is a source of satisfaction for her to know that she is mistress of her work, and able to provide for the wants of herself and others, which spirit is greatly to be commended (Inspector of Factories, 1900:21).

While the male inspectors only spoke of women in need of protection, Carlyle recognized that working women depend upon themselves. They are spirited and take "satisfaction" in the fact that they are self-supporting. Moreover, Carlyle is the only inspector who suggests equality for working-class women. That is, she called for the equalization of wages between the sexes (Inspector of Factories, 1898:20). Finally, Carlyle defends the honour and morals of working women. For example, she says:

A very large percentage of our factory girls are beautiful types of Christian devotion and fine womanly feeling. I am sure you will find as large a number of generous self-sacrificing sisters and daughters among mill help as among any other class in the world. There is honor (sic) in every right walk of industry, whether it is weaving fabrics or selling the product behind the counter. Labor (sic) contributes to the public welfare; it is therefore worthy of public care (Inspector of Factories, 1897:24).

Working class women may work in the secular world, but they are still self-sacrificing sisters and fine examples of Christian devotion. In other words, Carlyle is the only inspector, and a female inspector, who applauds and defends the spirit, independence, and honour of working class women. Carlyle herself, is a working woman and in this capacity, she seems to identify with working class women more in terms of gender than class.

Carlyle does identify with working class women on the basis on

her gender, but she also remains aloof from them on the basis of class. From her reports, she seems to advocate middle class concerns towards the health and morals of working class women (Inspector of Factories, 1896:26; 1897:22-23). For example, she states:

The injury to the health of females employed in workshops, factories and mercantile establishments, in consequence of their being compelled to be constantly on their feet, is undeniable. In many cases a female can perform her duties just as well sitting on a chair, stool, or bench as she can standing. To require her to become unnecessarily exhausted, to simply gratify a silly whim and looks too much like tyranny (Inspector of Factories, 1898:23).

Standing for long periods of time causes injury to the health of female operatives. In fact, to unnecessarily exhaust female workers is "tyranny". She charges that if "women and girls must take their places as laborers in factories and workshops, their health, safety and comfort must not be left to chance...the shield of the law must be invoked against all preventable causes of evil and danger incidental to such employment" (Inspector of Factories, 1900:21). Carlyle's words echo middle class anxieties over women's reproductive health and the consequences of standing for long periods of time. Seats for girls are one preventable cause of the evil and danger of standing for the length of their working day. Finally, Carlyle incites the need for female bosses where women and young girls are employed (Inspector of Factories, 1899:26; 1901:12). She reports:

It is the rule in many places, such as bookbinding establishments, printing offices, candy factories, etc., etc., for young girls to be placed under overseers of their own sex. There are many good reasons why this should be generally adopted. In many factories where male and female are employed there are exceptionally strict rules. The male and female enter the factory by different doors, and the women are dismissed after work several minutes before the men (Inspector

of Factories, 1901:12).

Female operatives should be segregated from male workers and supervised by female bosses. Carlyle charges that the virtue of both women and young girls can be maintained by the adoption of exceptionally strict rules.

While Carlyle differs somewhat from the three male inspectors, Rocque represents the archetype of 'Barberism'. That is, he represents Tucker's presentation of Barber's belief system better than Barber himself. First, Rocque continuously expresses profound relief that he has been cordially received by employers and that nothing bad has happened in his enforcement duties (Inspector of Factories, 1889:28; 1891:25). Second, he consistently maintains that accidents were the result of worker carelessness¹¹. For example, he reports, "In every case I have investigated the circumstances and places of accidents, and found that none were due to want of protection of machinery, but that in every instance the victims had been guilty of carelessness" (Inspector of Factories, 1890:27). Rocque believes that "in every instance" these "victims" were careless and thereby caused their accidents. In fact, throughout his reports, Rocque attributes most injuries to the lack of "proper care and prudence" exercised by workers (Inspectors of Factories, 1896:31; 1890:27; 1891:23; 1892:20; 1894:20). He even accuses employees of causing their own accidents and then not reporting them (Inspector of Factories, 1894:20). Third, Rocque consistently maintains that health and safety mutually benefit employers and employees alike (Inspector of Factories, 1894:17; 1899:17; 1900:17). For example, he says:

In conclusion, I have much pleasure in reporting that

the employers and employes (sic) have extended to me the greatest courtesy and given me all the assistance possible in the accomplishment of my duty, and both seemed to work in co-operation for the proper execution of the Act, and to understand that its operation was calculated to benefit them mutually, as in all cases information was given to me in a proper and friendly spirit (Inspector of Factories, 1891:25).

Not only have both employers and employees extended to Rocque the greatest courtesy, but they have acted together in co-operation and understand that factory legislation and subsequently health and safety "benefit them mutually". I think that Rocque was co-opted in his duties as an inspector. In fact, I believe he interpreted his role in a way which clearly favoured employers and supported the capitalist industrial order (Tucker, 1990:176). Rocque "did not insist on the strict compliance with the Act, especially when the alterations required would entail an expenditure not justified by the revenues and circumstances, and when there was not serious danger of accidents" (Inspector of Factories, 1890:26). Rocque did not force or even insist on compliance especially when it involved money. Moreover, he claimed consistently that vast improvements were taking place in the factories (Inspector of Factories, 1898:14). For example, he wrote, "With regard to other factories, I have only to report what I have already reported last year - that they are properly ventilated during the summer season, and kept clean, provided with proper water closets, the machinery well protected, all elevators well supplied with safety catches, and hoistings with proper guards" (Inspector of Factories, 1890:26). As this account suggests, if Rocque did not find any health and safety hazards in the workplace, then employers were not required to expend time or money in making improvements.

The inspectors' world views are more complex than Tucker presents. We can not simply juxtapose Brown against Barber, Rocque, and Carlyle based on class and their respective biographies. While these factors did help account for their views, we must pay heed to Abram's notion of social structure, social agency, and generational and biographical contingencies. That is, the inspectors were also influenced by gender, religion, North American and British models of inspection and enforcement, and the state. At the same time, they were four individuals with unique perspectives and must be treated as such. Each inspector did influence the enforcement process in an individual manner.

The Enforcement Strategy of the Inspectorate

I think there is efficacy to the Ontario inspectorate; that is, their power was utilized for the benefit of the working-classes. I contend that they achieved both successes and failures in their enforcement tactics. As early as 1888, they did require changes and prosecuted when their orders were not instituted. They did bargain and bluff employers and conducted repeat visits whenever possible. In other words, there is merit to persuasion in so far as it achieves success, or compliance with the law. While Tucker recounts the negative aspects of the inspectorates' enforcement procedure without reporting their successes, I will fill in some of the "gaps" with respect to the four inspectors working in Ontario's early mills and factories.

Tucker negatively evaluates the inspectors' work in their attempts to enforce this Act. For example, the inspectors claimed throughout their reports that significant improvements were taking place as a result of their efforts. Tucker contends, however, that

"it is unclear how much weight we should give to the inspector's self-evaluations, given the obvious incentives to promote a positive view of their work" (1990:171)¹². On one hand, Tucker is exactly right. In examining the inspector's reports we should carefully consider their own self-evaluations, however, the inspectors spoke of both their successes and failures in their annual reports. For example, in his second report, Barber recounts that in nearly all the cases where he had suggested changes, his wishes had been carried out, even when they involved considerable outlay of money (Inspector of Factories, 1890:8). While Barber may be quick to point out this success, he also reports a grave difficulty with ventilation and the removal of dust. I believe that if we are going to consider the inspector's reports in our analysis then we must report both their successes and failures. In other words, it is not valid to just select the negative and not the positive.

Tucker contends that the Act was still inoperative in 1888. He blames the ineffectiveness of this Act on the strategies of the inspectorate. That is, they employed persuasion instead of the more effective prosecutorial stance. In fact, he charges that "in some cases, it is not even clear that the inspector made very much effort even to persuade employers to change practices in their factories" (1990:145). He cites evidence that the inspectors made no demands for manufacturers to improve conditions in their establishments. Moreover, Tucker argues that witness after witness in the Ottawa area attested to the non-existent factory inspections. Even when an investigation did occur, the inspector was always 'in tow' of the foreman or employer and it was simply a

cursory visit. Consequently, workers could not bring any complaints or problems to the attention of the inspector without placing their employment in jeopardy (143-148). While Tucker's evidence is correct, he has created a rather biased account.

While there is evidence which documents the ineffectiveness of this Act and the inspectors' enforcement procedure, there is also evidence which documents the accomplishments of the inspectorate even as early as 1888. The inspectors did exercise their power for the benefit of the working class in providing improvements in their workplaces. For example, 53 people were interviewed by the RCRLC specifically about factory inspection occurring in Ontario. Twenty-nine compared to twenty-four persons testified that inspections had taken place in their establishments (RCRLC, Ontario, Part One and Two). Maybe person after person testified that no inspector had visited their factories in Ottawa¹³, but person after person testified that an inspector had been to their establishments in Toronto, Hamilton, and Kingston¹⁴ (RCRLC, 1888, Part One and Two).

Not only were inspections occurring in 1888, but testimony exists that all three inspectors conducted thorough investigations¹⁵ and required improvements to be made. For example, Joseph Firstbrook, a Box Manufacturer from Toronto, is questioned:

Q: Is the machinery properly protected?

A: I judge so. When the inspectors visited the factory they noticed one place - a hole of 16 or 18 inches where we pull lumber up. We had a piece of scantling down by the hole, and Brown said we should put a trap-door on. Our experience taught us that our plan was best, but we put on a trap-door. Besides this he suggested that we should board up a place where a belt came through, and we did so. These were the only things

they found fault with.

.....
Q: Were they careful in examining everything?

A: They examined so minutely that they noticed this belt that I speak of, which is in an out-of-the-way place, where we do not see it once a week (RCRLC, 1888:312-315).

According to Firstbrook, Inspector Brown had visited his establishment and required two changes to be made. Moreover, the two changes were "complied with" even though Mr. Firstbrook did not agree that the trap-door would provide the most optimal success. Brown even noticed a belt which was in an "out-of-the-way place", which suggests that he conducted a thorough investigation. As early as 1888, all three inspectors conducted thorough investigations and insisted upon improvements in the workplace. Not only did Brown require changes to be made by Joseph Firstbrook but also ordered fire-escapes which were erected at Messrs. A.Jardine & Co., and O.P. Reid and Co's factories; safety catches on elevators which were installed at H. & W.J. Crothers, Sylvester Brothers, and the Uxbridge Organ and Furniture Co.; and when necessary visited factories at 6:30 a.m. and 9:00 p.m. (Inspectors of Factories, 1889:20-21). Similarly, in his first report, Rocque recounts that he ordered safety catches, guards or trap-doors for elevators and these changes were instituted. He also discovered the main door and the doors leading to the main stairways in several factories opening inwards. He ordered them to be changed at once and they were in every instance, but for one factory which promised to comply without delay. He also heard rumours of improper water closet accommodations and the use of impure water in factories in Cornwall. He considered the matter of such importance that he secured the services of Dr. Hamilton, a

medical gentleman, and made a thorough inspection of all factories in that locality (Inspectors of Factories, 1889:28-30). Finally, in his first report, Barber recounts having prosecuted Mr.S.T. Fenton, of the Erie Preserving Company of St.Catharines, for working young girls and women later than 9 p.m. Moreover, he attests to having visited factories several times to see that forms were posted where necessary, registers were written up, to investigate complaints, and to see that necessary improvements were made. In fact, Barber inspected 97 factories employing women and children a second time, some a third and even fourth time (Inspectors of Factories, 1889:10). This evidence suggests that as early as 1888, the inspectors not only took their jobs seriously, but conducted thorough inspections, ordered changes, and prosecuted when the law was not "complied" with.

Inspectors also had opportunities and created opportunities to examine manufacturing establishments alone. John Wolfe, a manufacturer of the London Furniture Company, testified that the inspector had an opportunity of going through his shop and doing as he liked. He was not with the inspector and only saw him after he had gone through his establishment (RCRLC, Part One:608). Moreover, in 1888, Barber went alone through those factories employing women and children and conversed with them (Inspectors of Factories, 1889:6). Similarly, whenever possible, Rocque made his inspections "privately and unknown to the employer" (Inspectors of Factories, 1890:28). In fact, in one case he received an anonymous letter complaining of working underage boys until late in the evening. He immediately proceeded to this factory and "entered without any notice being given, and without the knowledge of any

person except the night watchman" (Inspector of Factories, 1893:25). These examples indicate that there were occasions when the inspectors went through factories alone and spoke to employees about possible health and safety hazards or breaches of the Act.

Ontario's early factory inspectors had no special interest in treating employers leniently or in avoiding prosecutions, except in so far as alternative procedures promised achievement of their objective, which was not a high rate of prosecutions, but compliance with the law (see Bartrip and Fenn, 1980:184). The merits of a compliance strategy depend on the frequency of contact between the inspector and management. Persuasion is a more effective strategy where there exists an ongoing relationship (Braithwaite, 1985:115). According to Tucker, an effective model of persuasion requires the inspector to detect violations and bargain and bluff with employers in order to convince them of the benefits of removing hazards. They must also conduct follow up inspections at reasonable intervals to ensure that the employer has made the promised changes. Tucker, in effect, charges that the Ontario inspectors' efforts at persuasion failed because they did not conduct frequent and persistent inspections (199' 8-149). Although the inspectors' tactics may have varied, they did make attempts to bargain and bluff employers and to conduct frequent and follow up inspections.

Consistently throughout her reports, Carlyle demonstrated both the belief and necessity of frequent inspections (Inspector of Factories, 1897:20; 1898:18-19; 1899:25; 1900:21). In her 1897 report, she inspected 986 establishments and to many of these made repeat visits. She believed that some places demand "close and

frequent inspection" (Inspector of Factories, 1897:20). In her 1898 report, she states:

We find that a wholesome fear of the law has been impressed in the minds of a majority of those people and as long as it is known that there will be a constant inspection of their premises, some attention will be given to the subject of cleanliness, and providing sufficient air space and sanitary arrangements (Inspector of Factories, 1898:19).

"Constant inspection" of factories results in a "wholesome fear of the law" and attention is then given to "cleanliness", the provision of "sufficient air space" and "sanitary arrangements". Carlyle saw the benefits resulting from the constant supervision of factories. From experience, she learned that her orders were more promptly complied with when she was able to conduct repeat inspections (Inspector of Factories, 1900:21)¹⁶.

Like Carlyle, Barber also conducted frequent inspections (Inspector of Factories, 1889:6; 1890:7; 1892:5; 1893:5; 1895:15; 1898:4). As early as 1889 he states:

The number of factories inspected does not indicate the whole work done by me. Many were visited several times, to see that forms were posted where necessary, registers written up, to investigate complaints, to see that necessary alterations or improvements were made, etc, I have inspected a second time, 97 factories employing females and children, and some a third and even a fourth time (Inspector of Factories, 1889:10).

Barber conducted repeat visits to ensure that forms were posted, registers written up, to investigate complaints, and to ensure that his improvements were complied with. He even inspected some factories a third and fourth time.

While Carlyle and Barber believed in frequent inspections, it is not self-evident from Brown's reports that he maintained the same belief. In 1888, Brown made four and five visits to some factories employing females to ensure that the "registers" were

correctly filled out (Inspector of Factories, 1889:18). In his 1890 report, however, he states:

The amended Act passed at the last session of the Legislature, bringing places where over five persons are employed under the operation of the Act, adds greatly to the number of places to be visited, and therefore factories have not been visited as often as during the previous year (Inspector of Factories, 1890:19).

Brown comments that the inspectors' workload was increased as a result of the Amended Act in 1889. Consequently, he was not able to visit factories as often as he did in 1888. Since Brown was much more likely to prosecute employers perhaps he did not believe in the tenets of persuasion and negotiation.

Rocque does not seem at all interested in conducting repeat inspections of factories. Throughout his reports from 1889 to 1900 only once does he remark on having to visit factories a second time. For example, he states:

I have this year noticed that there was no such pressure of work in the factories as I have remarked the previous years, and I found several which were closed, some awaiting orders and others dismissing their hands on the slightest pretext of repair. On several occasions I have been obliged to make a second trip to be able to inspect
(Inspector of Factories, 1896:19).

Several factories were closed when Rocque made his visit and this necessitated a second trip but not a second inspection. While Rocque may not believe in putting forth the extra work to conduct frequent inspections, he did make an effort to bluff employers.

In 1889, Rocque found several factories employing underage children. As a result, he "notified both the employer and owner that any such violation of the Act in future would be followed by prosecution of both parties" (Inspector of Factories, 1890:27). Rocque threatens to take extreme action if these employers fail to

abide the law in future. Similarly, Rocque discovered several instances in which guards had been removed from dangerous machinery to save "labor and trouble". In all cases, Rocque "informed the manager that the recurrence of such things would be followed by prosecutions without any further notice" (Inspector of Factories, 1892:17). Finally, Rocque discovered a factory with no washroom facilities for its female employees. He promised to prosecute if proper facilities were not provided by the next inspection (Inspector of Factories, 1898:15). While the evidence suggests that Rocque did not conduct frequent inspections he was at least willing to bluff employers, and even in one case attempted to prosecute¹⁷.

Amendments 1886 - 1900

Tucker invariably portrays the amendments of 1889 and 1895 as failures. He argues that the inspectors' workloads were enormous and this is illustrated by the cursory nature of their inspections¹⁸. The amendment in 1889 which defined a factory as six or more persons increased the inspectorate's workload and further stretched already scarce resources. Consequently, the lack of funds constrained any enforcement procedure employed (Tucker, 1990:148-149). Invariably conditions in the factories could only deteriorate as a result. In 1895, the Act was further amended to require that all serious accidents, however caused, be reported (158). Tucker rates the success of this revision on the number of prosecutions attained from lack of reporting. Since there was no increase this amendment failed (153). While Tucker concedes that amendments were achieved in 1889 and 1895 he does not give recognition to the improvements thus secured.

I contend that the amendments are evidence of the inspectorate's contribution to the developments of new legislation and improved administrative arrangements. The inspectors had the facts and experience to create feedback, and to provide information upon which further developments might be based (Arthurs, 1985:112). Through their investigations and experience in the field the inspectors were able to target problems with the Act and identify the needs of the working-class. Their feedback in turn created a "spin-off" of amendments which sought to correct difficulties thus encountered. In other words, the inspectors utilized their power to secure improvements for the working class. Some examples will illustrate my point.

First, the "cursory" inspections Tucker refers to provided direct benefits for the working class. The Inspectors during the years 1887 and 1888 visited establishments not included in the boundaries of the Act¹⁹, and from their observations were convinced that in the smaller factories there was a greater need for inspection concerning health, safety, employment of children and hours of labour (Inspectors of Factories, 1890:1). Generally the larger the establishment, the better protection offered therein (Inspectors of Factories, 1889:9,29; 1891:1; 1892:19). Due to the recommendations of the Inspectors, the Act was amended in 1889 to bring under its operation factories and workshops employing six or more persons (Factories' Amendment Act, 1889; Inspectors of Factories, 1890:1). This new provision may have increased the workload of the Inspectors but it was one step towards improving those smaller establishments which had greater health and safety hazards.²⁰ Second, a difficulty was noted regarding the safety of

elevators (Inspectors of Factories, 1889:20,29). Subsequently, the Factories Amendment Act in 1904 revised elevator regulations. Third, problems were encountered regarding both the safety and lack of fire-escapes (Inspectors of Factories, 1889:30; 1892:8). The Factories Amendment Act of 1895 required ropes at windows for fire-escapes. Fourth, the Act contained open-ended language which made improvements difficult to secure; for example, the Factories' Act did not define overcrowding or fix any specific cubic space per person (Inspectors of Factories, 1890:7). The Factories' Amendment Act in 1904 set standards for overcrowding in factories (Factories Amendment Act 1904/26). Fifth, although the Act did not extend to workers employed in stores, the inspectors noted the need for separate washroom facilities for women employed therein (Inspectors of Factories, 1891:17; 1892:9; 1895:23). As a result, the Protection of Persons Employed in Places Other than Factories (1892/54) required that separate bathroom facilities be provided for women and girls employed in places of work not covered by the Factories' Act. Moreover, the Inspectors reported problems with the time constraints of two months established to secure convictions (Inspectors of Factories, 1892:14; 1893:15; 1895:25). The Factories Amendment Act of 1895 tightened the notice requirements to convict an employer; that is, fatal accidents or those likely to prove fatal were to be reported to the inspector within twenty-four hours, and there was a change in the time limit for laying information in respect of offenses under the Act (Inspector of Factories, 1896:13). Furthermore, both Rocque and Carlyle note the problem of loose clothes worn by the employees and the long, loose hair carried by the women and girls in factories

(Inspector of Factories, 1896:20; 1897:22; 1900:18). The Factories' Amendment Act of 1904 required female employees to secure their hair. Finally, Brown and Rocque note the constant problem of boiler explosions and the need for boiler inspections (Inspector of Factories, 1895:26, 29; 1899:21). The Factories' Amendment Act of 1901 required boiler inspections.

Everyday the inspectors were confronted with problems and hazards in the workplace not covered within the terms of the Factories' Act. Through their investigations and experience they were able to target problems with the Act and identify the needs of the working-class. Their feedback in turn created a "spin-off" of amendments which sought to correct these difficulties encountered. These amendments provide ample proof that improvements were secured and that the inspectorate exercised their authority to the benefit of the working-classes. These revisions were one step towards improving health and safety in the workplace.

1. According to Tucker, the best evidence comes from the fact that only 35 charges were prosecuted in the first twelve years of the Act's operation (1990:146).

2. In 1887, there were only 3 inspectors appointed for all of Ontario. In 1888, Barber found 375 factories in his district, Brown found 224, and Rocque did not report a number. The workload of the inspectors increased substantially in 1889 as a result of an amendment which made factories employing more than 5 persons, rather than 20, subject to its provisions. Moreover, by 1901, there were 6543 manufacturing establishments in Ontario employing more than 5 persons and still only 4 inspectors. As well, the factory inspectors were given responsibilities under legislation regulating bake shops in 1896 and commercial shops in 1897. The low level of enforcement resources committed to factory inspection compared to other programs was noted at the time (Tucker, 1990:147-149).

3. According to Tucker, the labour movement from 1888 had called for the appointment of a female inspector. However, no action was taken by the government until middle-class reformers and the Women's Christian Temperance Union (WCTU) lobbied the government (Tucker, 1990:150).

4. To be more precise, Barber was appointed inspector of the city of Toronto, west of the centre of Yonge street, and the counties of Brant, Bruce, Elgin, Essex, Haldimand, Halton, Huron, Kent, Lambton, Lincoln, Middlesex, Norfolk, Oxford, Perth, Waterloo, Welland, Wellington, and Wentworth; Brown was assigned the city of Toronto, east of the centre of Yonge Street, and the counties of Addington, Durham, Dufferin, Frontenac, Grey, Haliburton, Hastings, Leeds, Lennox, Northumberland, Ontario, Peel, Peterborough, Prince Edward, Simcoe, Victoria and York; and Rocque was assigned the counties of Carleton, Dundas, Glengarry, Grenville, Lanark, Prescott, Renfrew, Russell and Stormont, and the Districts of Algoma, Muskoka, Nipissing, Parry Sound, Rainy River and Thunder Bay (Inspector of Factories, 1889:5,18,28).

5. Tucker claims that the experiences of the inspectors and their understanding of the causes of hazardous conditions and the appropriate responses to them were filtered through ideologies brought to the job and developed on it (1990:159).

6. As argued in chapter two, women's voices were "muffled" before the Royal Commission. Only 102 women were questioned from a pool of almost 1800 witnesses. While these women were quite open in describing their working and living conditions, when the time came to voice complaints, their voices fell silent. Only when they gave their testimony anonymously would they utter complaints. They spoke of badly ventilated workrooms that were either too hot, too cold, or too dusty. These women complained of extra time added to the work day without any financial compensation. They argued that they did not receive enough financial compensation for the work they did. And some women complained that upon leaving their employ they

did not receive the pay owing to them (Trofimenkoff, 1977:73). Similarly, female clerks spoke of long hours on their feet, poor ventilation, and being docked a full days pay if they were two or three minutes late for work. However, these women would only utter their grievances anonymously (RCRLC, 1888:74). Miss, Burnet, a Milliner and Dressmaker from Toronto, is the only example from Ontario of a woman not afraid to voice problems in the workplace. She argues that there should be seats for shop girls. It is injurious to their health to be kept standing all of the time (RCRLC, 1888:359). These examples suggest that women were afraid to speak publicly of any harsh conditions in their workplaces.

7. According to Armstrong, all of the major religious traditions claim that the acid test of any spirituality is the degree to which they have been integrated into daily life (1993:279). I believe Flavelle and many of the middle class womens' organizations exemplify the degree to which religion and the religious movements characteristic of nineteenth century Ontario were integrated into their daily attitudes, perceptions, and response to the working-class, men and women.

8. While Carlyle had sole charge of inspection with respect to female labour in factories, she had to report the "protecting of machinery", "fire escapes", "permits of overtime", and "accidents" to the male district inspectors who had exclusive command over such matters (Inspector of Factories, 1896:26).

9. Brown recognizes as does Barber that there exists a group of employers indifferent to the health and safety of their employees (Inspector of Factories, 1889:19).

10. Tucker recognizes that all of the male inspectors expressed special concern arising from a perceived female disposition to panic, whereas Carlyle's world views were very much in line with the 'maternal feminism' of the middle-class reformers of the period (1990:165-166). However, he is not direct in stating that while the male inspectors only call for protection of women, Carlyle is the only one who applauds, defends, and supports the equality of working-class women.

11. Only once did Rocque admit that several accidents occurred from lack of experience and want of proper guards (Inspector of Factories, 1893:25).

12. According to Tucker, the same kinds of problems reappeared every year despite the continual assurances that progress was being made. He argues that it is difficult to determine whether an inspector was telling us about actual changes, or reporting the extent to which the employer has indicated a willingness to comply in future (1990:171).

13. However, it is important to recall that Rocque was the inspector for Ottawa. Tucker charges that Rocque neglected his duties and was removed from his office by order-in-council for failing to perform them (Tucker, 1990:159).

14. For example, in Toronto 5 to 1 persons, Hamilton 6 to 0 persons, and Kingston 5 to 1 persons, testified that inspectors had conducted investigations in their establishments (RCRLC, 1888, Part One and Part Two).

15. A.W. Porter of McCormick Manufacturing in London, testifies that the inspector visited twice and spent a couple of hours going through their factory (RCRLC, Part Two:668).

16. Although Carlyle did argue for constant inspection of factories, in 1899 she stated: "It has been impossible for me to inspect often all work-shops and factories during the year, but my time has been devoted to those places which require the most careful attention" (Inspector of Factories, 1899:21).

17. In 1893, Rocque attempted to prosecute D.C. Watters for failing to report an accident. However, at the time of the trial, the victim, Miss Burden, admitted that she could have returned to work within 6 days and that she received a gratuity of two weeks wages from her employer. Upon such evidence the prosecution failed (Inspector of Factories, 1894:20).

18. According to Tucker, there were too many establishments in each of the inspector's districts for them to investigate. The fact that they visited all required factories, conducted repeat visits, and were able to inspect factories not covered by the Act suggests the cursory nature of their investigations (Tucker, 1990:148).

19. A factory was defined as twenty or more persons employed therein (Factories' Act 1884).

20. It should be noted that although a factory was re-defined from 20 or more persons to six or more persons, the inspectors still encountered workshops with less than 6 persons employing underage children (Inspectors of Factories, 1893:12; 1895:24). Since these establishments did not fall within the boundaries of the Act the inspectors were powerless to correct the situation.

Conclusion

The Ontario Factories' Act of 1884 and its subsequent spin-off of amendments represents the first labour legislation in Ontario to protect the terms of workers' employment. But rather than equally protect "all" workers this Act set boundaries on who would receive protection. That is, the Ontario Factories' Act of 1884 defined a factory and offered shelter only to those working for wages as explicated. To understand the purpose of this labour legislation and why it came to be, one needs to understand the social politics of everyday life. A complex web of interests and conditions in nineteenth century Ontario produced this first health and safety legislation.

It is necessary to ascertain what historical, material, political, and ideological factors contributed to the Ontario Factories' Act of 1884. There are several levels of abstraction which help to explain the rise of this legislation in Ontario. On a substantive level, the historical context of nineteenth century Ontario: the experience of women and paid labour, the material subsistence of the working-class family, health and safety hazards in the workplace, and the rise of capitalism all contribute to the establishment of official protection for the working-class, and special protection for women.

Industrial capitalism developed in the second half of the nineteenth century in Canada and Ontario stood at the centre of this capitalist development. While the transition to industrial capitalism was a very uneven process, Ontario did witness a

dramatic increase in its industrial centre. Industrialization had profound effects for the working-class family: first, each member was needed and expected to contribute to the households' daily subsistence needs; and second, this factor had profound implications for the health and safety of men, women, and children. Industrial accidents were indiscriminate of age or sex. Workers were maimed and killed, young and old alike. Poor ventilation, overcrowding, unsanitary arrangements, unsafe buildings, lack of proper fire-escapes, new processes, new machines, and a new organization of work characterize only some of the health and safety hazards faced by the working-class in their everyday jobs. Despite these conditions faced by the working class, women were targeted for special protection.

The Ontario Factories' Act of 1884 extended its arms of protection to women, but only to certain women. The specific provisions of this legislation attempted to regulate a certain sector of women's paid employment. In fact, the boundaries established by this Act excluded most women workers in late nineteenth century Ontario; for example, most working women were domestics or homeworkers, single, isolated, and immigrants, unprotected by the terms and conditions of factory legislation. Those women who did work in industrial or manufacturing sectors were concentrated in job segregated markets, and paid very low wages. Overall, women occupied a disadvantaged position in the labour market. It was specifically the conditions of female factory employment, however, that caused much controversy. On a

more abstract level, theories of the state, and the interplay between gender and class are crucial to an understanding of "protective" legislation for the working-class, men and women.

We need to understand the social relations within capitalist society as a combination of both class and gender. On one hand, physical vulnerability, religious and moral reform movements, the proper sphere of women, and job competition all informed the gender debates surrounding protection for working-class women. Gender did have an impact on the politics of factory legislation in nineteenth century Ontario. Women were blatantly constructed as morally and physically inferior to men and deemed in need of official protection. On the other hand, class also informed the debates surrounding protective legislation in nineteenth century Ontario. First, both the working and employer classes, men and women all varied in their attitudes towards women and work in the nineteenth century. Class influenced their ideas and actions concerning protective legislation for women, but so did their gender. Their individual perceptions and attitudes helped determine the route of protective legislation. Second, the clash of interests between organized labour and manufacturers also determined the course of state intervention with respect to legislation. There is little doubt that the working-class lobbied the government for protection in the workplace, however, Humphries' argument of sex-specific legislation does not speak to the experience of women in Ontario. Finally, the Ontario Factories' Act of 1884 can be viewed as an attempt by the state to ensure both the regulation and reproduction

of the capitalist industrial order. That is, by providing special legislative protection for women, the state valued women more for their role in reproduction of the future industrial labour force than their productive abilities and actively supported a particular household, the nuclear family. Protective legislation may be viewed as a concession to labour and a form of reproducing the capitalist industrial order and the future supply of industrial workers.

The state, class and class conflict, and gender are all important issues to consider in the formation of protective legislation for the working-class in nineteenth century Ontario. These are all complex debates which need considerable attention. A political economy approach does inform us about the conditions prevalent in the nineteenth century which helped to formulate these labour laws which were also gender specific. A dynamic, historic, and materialist approach does inform us about the changing nature of work in Ontario. But I believe this approach must also directly account for the situation of women. We need a feminist political economy reconstructed in terms of gender, class, and the state, and how they contributed to the rise of labour legislation for the working-class, and special protection for women.

Did workers benefit from health and safety legislation in nineteenth century Ontario? One way, and I believe the best way to determine if workers benefited from protective legislation is to examine the inspectorate. The literature on the early British inspectorate is important for several reasons: first, the Ontario

inspectors were both familiar and influenced by British and North American models of enforcement; and second, Tucker applies to Canada ideas which were first developed in the British context. Overall, this literature not only helped us to further theorize about the Ontario inspectorate in chapter five, but also added to our understanding of Tucker.

Tucker represents the most comprehensive contemporary analysis of nineteenth century health and safety legislation in Ontario. While he conducts a thorough investigation of Ontario's factory legislation and I agree with most of his substantive evidence in recreating the 1880s in Ontario, some of his claims need to be rethought. In fact, I give such central importance to Tucker because I disagree with his conclusions concerning the efficacy of the inspectorate. I have difficulty with his views on the relative merits of persuasion versus prosecution, his examination of and the centrality he gives to class, the inspectors' world views, and their enforcement procedure.

While class influenced the inspectors' world views and enforcement procedure, we must pay heed to Abram's notion of social structure, social agency, and generational and biographical contingencies. That is, the inspectors were also influenced by gender, religion, North American and British models of enforcement, and the state. At the same time, they were four individuals who influenced the enforcement process in a unique manner. Moreover, there is merit to a persuasion strategy. Ontario's four factory inspectors had no special interest in treating employers leniently

or in avoiding prosecutions, except in so far as alternative procedures promised success, or compliance with the law. The power of the inspectorate was utilized for the benefit of the working-class. Health hazards were diminished in the workplace due to their efforts. As early as 1888, they did require changes and prosecuted when their orders were not implemented. They did conduct repeat visits when possible, and bargain and bluff employers. In fact, through their investigations and experience in the field, the inspectors were able to target problems with the Act and identify the needs of the working-class. Their feedback in turn generated a "spin-off" of amendments which sought to correct difficulties encountered and to improve the material subsistence of working-class life.

An examination of the inspectorate and subsequent implementation of this Act reveals that this legislation did benefit the working-class. Due to the efforts of the inspectors, health and safety was improved. "Protection", however, should have been equally extended to both men and women. In other words, women both lost and gained from this legislation. The conditions of their employment were improved, but at a great cost. Rather than equally protecting the health and safety of all workers, the Ontario Factories' Act of 1884 formally set women apart from men. This notion of special protection is antithetical to equality. In fact, this Factory Act is one example of how unequal gender relations are perpetuated in both the home and workplace.

Where do we go from here? There is certainly further

historical work to be done. First, the boundaries of this Act need to be further questioned. Why were certain workers, such as domestics and homeworkers, continuously excluded from the terms of this legislation? Second, the religious movements provide an interesting facet which should be further explored as a motivation in the rise of protective legislation. Third, gender has been largely ignored in studies of the implementation of factory legislation. While I examine the gendering of enforcement in chapter five, gender and the inspectorate is an important element which needs to be further explored. Finally, much more work needs to be done in examining Ontario labour legislation in the early twentieth century. What sort of 'domino' effect did the labour legislation instituted and implemented from 1880 to 1900 have on future statutes in Ontario? Was health and safety legislation both extended and improved in the twentieth century due to the earlier Acts established? In other words, were any long-term benefits derived from the Ontario Factories' Act and its subsequent spin-off of amendments?

APPENDIX 1

MANUFACTURING ESTABLISHMENTS EMPLOYING WOMEN IN 1898

(Female Inspector of Factories, 1899:30)

Bedspings,
 Baking powder
 and yeast,
 Barb wire,
 Bird Cage,
 Biscuit,
 Blankets,
 Bolts and nuts,
 Book binding,
 Boots and shoes,
 Boot laces,
 Baskets,
 Brooms,
 Brushes,
 Buttons,
 Artificial flowers
 and feathers,
 Canned goods,
 Carpets,
 Carriages,
 Chenille,
 Chemical works,
 Cider,
 Chewing gum,
 chains,
 Cigars,
 Clothing,
 Coffin,
 Confectionary,
 Corks,
 Co. sets,
 Cotton,
 Dress steels,
 Dye works,
 Electric machinery,

Electrotpe,
 Envelopes,
 Felt factories,
 File Works,
 Flax mills,
 Fire works,
 Fishing tackle,
 Fringe and tassels,
 Furniture,
 Furriers,
 Gloves,
 Hair cloth,
 Hair works,
 Hats and caps,
 Hinge factories,
 Horn comb,
 Hosiery,
 Jams,
 jellies,
 pickles,
 Jewelry,
 Knitting,
 Laundries,
 Lye works,
 Linen, cotton, jute
 bags,
 Lithographers'
 works,
 Machine
 screw works,
 Matches,
 Matting,
 Mattress,
 Macaroni,
 Nails,
 Neckties,

Oilcloth,
 Paper bags, boxes,
 Patent medicines,
 Pins,
 Plush,
 Perume,
 Printing,
 Rag sorting,
 Rattan goods,
 Rope,
 Rubber,
 Saddiery,
 Salt,
 Shirt,
 Shoddy,
 Sauces,
 Soap,
 Spring beds,
 Spice and
 coffee mills,
 Starch,
 Straw works,
 Suspenders,
 Tin stamping,
 Bicycle tires,
 Tents, awnings,
 Tobacco factories,
 Trunk factories,
 Type foundries,
 Vinegar Works,
 Wall paper,
 Watch cases,
 Wine bottling,
 Whip factories,
 Window shades,
 Woollen factores.

APPENDIX II

Amendments in Ontario 1887 - 1904

Revised Statutes of Ontario "An Act to amend the Ontario Factories Act", 1887(35).

Revised Statutes of Ontario "An Act to amend the Ontario Factories' Act", 1889(42).

Revised Statutes of Ontario "An Act to make further provision respecting Factories", 1895(50).

Revised Statutes of Ontario "An Act to further improve the Factories Act", 1901(35).

Revised Statutes of Ontario "An Act to amend The Factories Act", 1904(26).

REFERENCES

- Abele, F. and D. Stasiulis. "Canada as a "White Settler Colony": What about Natives and Immigrants?" in Wallace Clement and Glen Williams (eds.) The New Canadian Political Economy. Montreal and Kingston: McGill University Press, 1989.
- Albo, Gregory, and Jane Jenson. "A Contested Concept: The Relative Autonomy of the State", in Wallace Clement and Glen Williams (eds.) The New Canadian Political Economy. Kingston, Montreal, London: McGill-Queen's University Press, 1989.
- Alyward, Sandra. "Hamilton Working Women and 'Protective' Legislation: A Review of Theories on the Gendered Division of Labour". Masters Thesis, McMaster University, 1983.
- Armstrong, Karen. A History of God: The 4000-Year Quest of Judaism, Christianity and Islam. New York: Ballantine Books, 1993.
- Armstrong, Pat, and Hugh Armstrong. "Beyond Sexless Class and Classless Sex: Towards Feminist Marxism", in Roberta Hamilton and Michele Barrett (eds.) The Politics of Diversity. London: Book Center Inc., 1987.
- Arthurs, H.W. 'Without the Law' Administrative Justice and Legal Pluralism in Nineteenth-Century England. Toronto, Buffalo, London: University of Toronto Press, 1985.
- Bacon, Judith. "Class And Gender or Gender And Class: Women And The Ontario Factories' Act of 1884". Unpublished paper, Carleton University, 1992.
- Bacon, Judith. "Feminist Political Economy? Gender, Class, Race, and the State: Women and the Ontario Factories' Act of 1884". Unpublished paper, Carleton University, 1993.
- Barber, Marilyn. "The Women Ontario Welcomed: Immigrant Domestic Servants for Ontario Homes, 1870-1930", Ontario History. 72: 148-172 (Sept. 1980).
- Barber, Marilyn. "Sunny Ontario for British Girls, 1900-30", in Jean Burnet (ed.) Looking Into My Sister's Eyes: an Exploration in Women's History. Toronto: The Multicultural History Society of Ontario, 1986.
- Barber, Marilyn. Immigrant Domestic Servants in Canada. Ottawa: The Canadian Historical Association with the Support of the Multiculturalism Program, 1991.

- Bartrip, P.W.J., and P.T. Fenn. "The Administration of Safety: The Enforcement Policy of the Early Factory Inspectorate, 1844-1864", Public Administration. 58: 87-102 (1980).
- Bartrip, P.W.J., and P.T. Fenn. "The Conventionalization of Factory Crime -- A Re-assessment", International Journal of the Sociology of Law. 8: 175-186 (1980).
- Bliss, Michael. A Canadian Millionaire: The Life and Business Times of Sir Joseph Flavelle, Bart. 1858-1939. Toronto: Macmillan of Canada, 1978.
- Braithwaite, John. To Punish or Persuade: Enforcement of Coal Mine Safety. Albany: State University of New York Press, 1985.
- Braithwaite, John, John Walker, and Peter Grabosky. "An Enforcement Taxonomy of Regulatory Agencies", Law and Policy. 9: 323-351 (1987).
- Brodie, M. Janine, and Jane Jenson. Crisis, Challenge and Change: Party and Class in Canada. Toronto, New York, London, Sydney, Auckland: Methuen Publications, 1980.
- Canadian Sessional Papers, "Report of the Commissioners appointed to enquire into the working of Mills and Factories of the Dominion, and the labor employed therein" #42 1882.
- Canadian Sessional Papers "Return" #83 1882.
- Canadian Agricultural Statistical Year-Book of Canada "Immigration" 1886.
- Carson, W.G. "White-Collar Crime And The Enforcement Of Factory Legislation", British Journal of Criminology. 10: 383-398 (1970).
- Carson, W.G. "The Conventionalization of Early Factory Crime", International Journal for the Sociology of Law. 7: 37-60 (1979).
- Carson, W.G. "Early Factory Inspectors and the Viable Class Society -- A Rejoinder", International Journal for the Sociology of Law. 8: 187-191 (1980).
- Clark, S.D. The Canadian Manufacturers' Association: A Study in Collective Bargaining and Political Pressure. Toronto: The University of Toronto Press, 1939.
- Clement, Wallace. "Canadian Political Economy", in M. Rosenberg et al. (eds.), An Introduction to Sociology. 1987.

- Cohen, Majorie Griffin. Women's Work, Markets, and Economic Development in Nineteenth-Century Ontario. Toronto, Buffalo, London: University of Toronto Press, 1988.
- Connelly, P. Last Hired, First Fired: Women and the Canadian Work Force. Toronto: The Women's Press, 1978.
- Craven, Paul. 'An Impartial Umpire' Industrial Relations and the Canadian State 1900-1911. Toronto, Buffalo, London: University of Toronto Press, 1980.
- Curtis, Bruce. "Mapping the Social: Notes from Jacob Keefer's Educational Tours, 1845", Journal of Canadian Studies. 28(2): 51-68 (Summer 1993).
- Drache, Daniel. "The Formation and Fragmentation of the Canadian Working Class: 1820-1920", Studies in Political Economy. 15: 43-89 (1984).
- Eisenstein, Sarah. Give us bread but give us roses: Working Women's consciousness in the United States, 1890 to the First World War. London: Routledge & Kegan Paul, 1983.
- Forsey, E. Trade Unions in Canada 1812-1902. Toronto: University of Toronto Press, 1982.
- Glasbeek, Amanda. "The Politics of Protection: Gender, Class, Skill and the Ontario Factories' Act of 1884". Masters Thesis, Carleton University, 1992.
- Hawkins, Keith. "Bargain and Bluff: Compliance Strategy and Deterrence in the Enforcement of Regulation", Law and Policy Quarterly. 5: 35-73 (1983).
- Hawkins, Keith. Environment and Enforcement: Regulation and the Social Definition of Pollution. Oxford: Clarendon Press, 1984.
- Heron, Craig, and Robert Storey. on the job: confronting the labour process in Canada. Kingston and Montreal: McGill-Queen's University Press, 1986.
- Humphries, Jane. "Protective Legislation, the Capitalist State, and Working Class Men: The Case of the 1842 Mines Regulation Act", Feminist Review. 7: 1-29 (Spring 1981).
- Inspector of Factories, 1889 (39).
- Inspector of Factories, 1890 (35).
- Inspector of Factories, 1891 (60).

- Inspector of Factories, 1892 (25).
- Inspector of Factories, 1893 (25).
- Inspector of Factories, 1894 (42).
- Inspector of Factories, 1895 (26).
- Inspector of Factories, 1896 (29).
- Inspector of Factories, 1897 (28).
- Inspector of Factories, 1898 (27).
- Inspector of Factories, 1899 (8).
- Inspector of Factories, 1900 (8).
- Inspector of Factories, 1901 (8).
- Jaggar, Alison M. Feminist Politics and Human Nature. New Jersey: Rowman & Allanheld, 1983.
- Jenson, Jane. "Gender and Reproduction: Or, Babies and the State", Studies in Political Economy. Summer 1986.
- Jenson, Jane. "Different but Not Exceptional: The Feminism of Permeable Fordism", New Left Review. 184: 58-68 (November December 1990).
- Jenson, Jane. "Representations in Crisis: The Roots of Canada's Permeable Fordism", Canadian Journal of Political Science. 23(4): 653-683 (December 1990).
- Johnson, Leo. "The Political Economy of Ontario Women in the Nineteenth Century" in Janice Acton et al. (eds.), Women at Work: Ontario 1850-1930. Toronto: Canadian Women's Educational Press, 1974.
- Johnson, Laura C., and Robert E. Johnson. The Seam Allowance: Industrial Home Sewing in Canada. Oshawa: Alger Press Ltd., 1982.
- Jones, Helen. "An Inspector Calls: Health and Safety at Work in Inter-War Britain" in Paul Weindling (ed.) The Social History of Occupational Health. London, Sydney, Dover, New Hampshire: Croom Helm, 1985.
- Kealey, Gregory S. Hogtown: Working Class Toronto At The Turn of The Century, Toronto: New Hogtown Press, 1974.

- Kealey, S. Toronto Workers Respond to Industrial Capitalism 1867-1892. Toronto, Buffalo, London: University of Toronto Press, 1980.
- Kealey, Gregory S., and Bryan D. Palmer. Dreaming of what might be: The Knights of Labor in Ontario, 1880-1900. Cambridge: Cambridge University Press, 1982.
- Kealey, Gregory S., and Bryan D. Palmer. "The Bonds of Unity: The Knights of Labor in Ontario, 1880-1900" in Bryan D. Palmer (ed.) The Character of Class Struggle: Essays in Canadian Working-Class History. Toronto: The Canadian Publishers, 1986.
- Keil, Jared. Course: Development, Dependency, and Gender, Class discussion concerning the definition of patriarchy, March 18, 1993.
- Kelman, Steven. Regulating America, Regulating Sweden. Cambridge: The Massachusetts Institute of Technology Press, 1981.
- Klein, Alice and Wayne Roberts. "Beseiged Innocence: The 'Problem' and Problems of Working Women - Toronto, 1896 - 1914", Pp. 211-261 Women at Work 1850 - 1930. Toronto: Canadian Women's Educational Press, 1974.
- Lacelle, Claudette. Urban Domestic Servants in 19th - Century Canada (Ottawa, 1987).
- Leslie, Genevieve. "Domestic Service in Canada, 1880-1920", in Janice Acton et al. (eds.) Women at Work: Ontario 1850 - 1930. Toronto: Canadian Women's Educational Press, 1974.
- Lindstrom-Best, Varpu. "I Won't Be a Slave!" -- Finnish Domestic in Canada, 1911-30", in Jean Burnet (ed.) Looking Into My Sister's Eyes: an Exploration in Women's History. Toronto: The Multicultural History Society of Ontario, 1986.
- MacLean, Annie Marion. "Factory Legislation for Women in Canada", American Journal of Sociology. 5: 172-181 (1899-1900).
- Mahon, Rianne. "Canadian public policy: the unequal structure of representation", in Leo Panitch (eds.) The Canadian state: political economy and political power. Toronto and Buffalo: University of Toronto Press, 1977.
- Marchak, Patricia. "Canadian Political Economy". Canad. Rev. Soc. & Anth.. 22(5) 1985.
- Maroney, Heather Jon, and Meg Luxton. Feminism and Political Economy: Women's Work, Women's Struggles. Toronto, New York, London, Sydney, Auckland: Methuen Publications, 1987.

- McCallum, Margaret E. "Keeping Women in Their Place: The Minimum Wage in Canada, 1910-25", Labour/Travail. 16-17: 29-56 (1985-1986).
- Ostry, Bernard. "Conservatives, Liberals, And Labour In The 1880'S", The Canadian Journal of Economics and Political Science. 2: 141-161 (May 1961).
- Palmer, Bryan D. Working-Class Experience: The Rise and Reconstitution of Canadian Labour, 1800 - 1980. Toronto and Vancouver: Butterworth & Co., 1983.
- Palmer, Bryan D. "Listening to History Rather than Historians: Reflections on Working Class History", Studies in Political Economy. 20: 47-84 (1986).
- Parr, Joy. The Gender of Breadwinners: Women, Men, and Change in Two Industrial Towns, 1880-1950. Toronto: University of Toronto Press, 1990.
- Pentland, H. Clare. Labour and Capital In Canada 1650-1860. Toronto: James Lorimer & Company, 1981.
- Phillips, Ann. Divided Loyalties: Dilemmas of Sex and Class. London: Virago Press Limited, 1987.
- Revised Statutes of Ontario "An Act to amend the Ontario Factories' Act, 1884", 1887(35).
- Revised Statutes of Ontario "An Act to amend the Ontario Factories' Act", 1889(42).
- Revised Statutes of Ontario "An Act to make further provision respecting Factories", 1895(50).
- Revised Statutes of Ontario "An Act to further improve the Factories Act", 1901(35).
- Revised Statutes of Ontario "An Act to amend The Factories Act", 1904(26).
- Roberts, Barbara. "'A Work of Empire': Canadian Reformers and British Female Immigration" in Linda Kealey (ed.) A Not Unreasonable Claim: Women and Reform in Canada, 1880's - 1920's. Toronto: The Women's Press, 1979.
- Roberts, Wayne. "'Rocking the Cradle for the World': The New Woman and Maternal Feminism, Toronto 1877-1914", in Linda Kealey (ed.) A Not Unreasonable Claim: Women and Reform in Canada, 1880s - 1920s. Toronto: Women's Educational Press, 1979.

- Royal Commission on Relations of Labour and Capital, Ontario
Evidence: Part One, 1888.
- Royal Commission on Relations of Labour and Capital, Ontario
Evidence: Part Two, 1888.
- Sacks, Karen B. "review article: toward a unified theory of class, race, and gender", American Ethnologist. 16 (3):534-550, 1989.
- Scott, J.T. The conditions of female labour in Ontario. Toronto: Warwick & Sons, 1892.
- Scott, Joan Wallach. Gender and The Politics of History. New York: Columbia University Press, 1988.
- Stansell, Christine. City of Women: Sex and Class in New York. 1789-1860. Toronto: Random House of Canada Limited, 1986.
- Statutes of Ontario 47 "An Act for the Protection of Persons Employed in Factories" 1884 c.39 cited as the Ontario Factories' Act, 1884.
- Statutes of Ontario 59 "An Act respecting Bake Shops" 1896.
- Strong-Boag, Veronica. "Working Women and the State: the Case of Canada, 1889-1945", Atlantis. 6: 1-9 (1981).
- Trofimenkoff, Susan. One Hundred and Two Muffled Voices: Canada's Industrial Women in the 1880s", in Laurel Sefton MacDowell and Ian Radforth (eds.) Canadian Working Class History: Selected Readings. Toronto: Canadian Scholars' Press, 1992.
- Tucker, Eric. "The Law of Employers' Liability in Ontario 1861-1900: The Search for a Theory", Osgoode Hall Law Journal. 22: 213-280 (1984).
- Tucker, Eric. Administering Danger in the Workplace: The Law and Politics of Occupational Health and Safety Regulation in Ontario 1850-1914. Toronto Buffalo London: University of Toronto Press, 1990.
- Ursel, Jane. "The State and The Maintenance of Patriarchy: A Study of Family, Labour and Welfare Legislation in Canada", Family, Economy & State: The Social Reproduction Process Under Capitalism. Pp. 150-189 in James Dickinson and Bob Russell (eds.), Toronto: Garamond Press, 1986.
- Veljanovski, Cento G. "Regulatory Enforcement: An Economic Study of the British Factory Inspectorate", Law and Policy Quarterly. 5: 75-97 (1983).

END

1 4 - 1 1 - 9 5

FIN