Dying for Gold, **Lee Selleck and Francis Thomson, HarperCollins, 1997 – excerpt**

[CLRB hearing in Yellowknife NWT, of a union unfair labour practice filed by the Canadian Association of Smelter and Allied Workers (CASAW) that the Giant Mine Employees Association (GMEA) was a company dominated union, and that its application for certification should be dismissed.]

[The case] would be presented by …… Leo McGrady, a veteran labour lawyer. Tall and thin with wire-rimmed glasses, he looked more like an academic than a legal pit bull, sounding gracious and polite, even as he demolishes a witness. [page 171]

McGrady had no way of knowing how many signed cards the GMEA had, so he attacked O'Neil's credibility. CASAW was certain that GMEA was propped up by Royal Oak, and company-dominated unions are illegal. [page 171/172]

Leo McGrady cooked Jim O'Neil on cross-examination, as more than 100 people, mostly CASAW members, watched. "Did this miraculous discovery [of the list] just happen as you were about to mail out your first bulletin?" He asked. O'Neil couldn't remember. [page 173]

"It's an organizers dream, isn't it, to walk into a photocopier room and have it in your mind to organize a rival union, and, lo and behold, there is a full company list," McGrady taunted him.

"Yeah, you're right," O'Neil replied, sounding crestfallen.

McGrady presented a pile of Royal Oak time sheets, showing where each man had worked while the GMEA was being organized. Timesheets and minutes of GMEA meetings showed that O'Neil was off work frequently during this period, and was "sick" on the very days he chaired GMEA meetings or reviewed labour law to discuss strategy with Chafetz. "What were you sick with, please?" McGrady asked sweetly.

"After the explosion … I found myself very stressed out and I just had a hard time carrying on, so I requested a leave of absence," O'Neil answered. It was sweltering in the hearing room. The session went on for hours, with McGrady grilling O'Neil about his "good buddy," mine manager Terry Byberg. [page 173]

[The CLRB ruled that the GMEA was company-dominated and unfit to represent workers]

[CLRB hearing of a union unfair labour practice against Royal Oak Mines that the company had bargained in bad faith]

Union lawyers Leo McGrady and Gina Fiorillo were determined to unearth so much evidence that even the most procompany CLRB member couldn't deny it. [page 239]

The highlight of the hearing came when Royal Oak called its only witness, Peggy Witte (Its owner and CEO).

… To listen to Witte, all Royal Oak's actions from the day it bought the Giant weren't just reasonable, they were essential. Anyone who disagreed with her was a bit slow-witted… [page 241]

…A typical example came on cross-examination, when McGrady grilled her about Royal Oak's demand for additional firings of unnamed strikers.

"Are you not seeking the union's agreement that 15 of its members in addition to the forty-five are terminated?" McGrady prodded.

"No, we are not seeking the union's agreement that those people be terminated automatically," Witte answered. "We are seeking someone from the union to sit down with the company and go over the list of people and discuss the lists and *understand*–take the time to *understand* what the company's concern are about these individuals."

"And what if they don't understand, what will you do then? Will you fire them?" McGrady asked with false gentleness. [page 241]

McGrady extracted two interesting bits of hard evidence from Witte. First, she was personally involved in providing a list of labour lawyers to Jim O'Neil, just weeks into the dispute. But Witte said she had no idea who wanted the list or why. "It could have been for any employee or group of employees", she said. "Many times when an employee has a marital problem or has problems and comes to the company asking if we could refer them to the legal community, we do that". [page 242]

"But you don't hire a labour lawyer for matrimonial problems, I would hope?" McGrady needled.

"That wasn't the point, Mr. McGrady," Witte replied sourly.

Second, Witte produced a list of additional strikers Royal Oak hoped to fire or get rid of with a severance package…

More damning evidence came with the insight Witte offered into her thinking about the union. McGrady asked her, for example, about Royal Oak's suggestion on June 6, 1992, that strikers could make up for the company's strike costs to date by working Saturdays for free. Witte insisted the demand was serious, not a provocation or an attempt at humour. … And when the tentative agreement was voted down, it took the *faith* away from us that the relationship would ever be resolved again." It was a poor choice of words for a chief executive officer accused of bargaining in bad faith, and it came early in Witte's cross-examination. She chafed under the ebb and flow of pressure from McGrady, and looked very grim. Her face and eyes grew red until she was almost in tears. McGrady sensed it, and eased his aggressive tone. [page 242]

[Royal Oak was found guilty of 4 bad – faith violations. The company appealed, unsuccessfully, to the Federal Court of Appeal [1994] FCJ No. 416, and then to the Supreme Court of Canada. *Royal Oak Mines v CIRB* [1996] 1 SCR 369]