

STRIKE-BREAKING, AN IMPROPER ROLE

Metropolitan Reference FOR A PUBLIC POLICE FORCE

B R I E F TO THE METROPOLITAN TORONTO REVIEW OF CITIZEN COMPLAINT
PROCEDURE - MR. ARTHUR MALONEY, Q.C.,
by the Canadian Textile and Chemical Union. Oct. 18, 1974.

On August 21, 1973; the employees of Artistic Woodwork Company Limited, in Metro Toronto, engaged in a lawful strike for a first collective agreement. But before that strike had terminated, on December 3, 1973, with the signature of an agreement for the workers, 108 persons had been charged under the Criminal Code, several of them more than once.

The Artistic strike brought into focus the role of the police vis-a-vis management and their employees on strike, in circumstances where two conflicting sets of laws come into play.

ONE LAW FOR THE RICH - ANOTHER LAW FOR THE WORKING PEOPLE

On the one hand, there are the social - civil rights - laws, which are said to ensure the right of association, of free speech, the right of employees "...to join a union of (their) own choice, and to participate in its lawful activities." (Ontario Labour Relations Act, section 3.); and, the employees' right to collective bargaining in "good faith", where there shall be made "every reasonable effort to make a collective agreement." (O.L.R.A., section 14.); and, the right to engage in lawful strike, after following lengthy procedures (O.L.R.A.).

On the other hand, there are the laws which ensure the employer's right to try to break the strike of his employees.

In the Artistic strike, the social laws proved ineffective and were turned into a cynical farce on law-abiding, largely immigrant workers, working under conditions of considerable exploitation.

As for the police of Metro Toronto, they acted as though they knew nothing of the social laws, while they did, in fact, speedily, forcefully and oftentimes brutally, enforce the laws permitting the employer to engage in strike-breaking.

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Soon after the strike started, Union Counsel Norman Endicott wrote to, phoned and visited Metro Toronto Chief of Police Harold Adamson and other police officers, to complain, amongst various matters, about:

1. Police delivery to the picketline of a text, purporting to set out section 381 of the Criminal Code, dealing with intimidation. Counsel noted that the text failed to contain a reference to subsection 381 (2), in defense of the lawful right to picketing;
2. The failure of police to permit picketers to communicate peacefully with strike-breakers, driven through picketlines by management personnel;
3. Police harassment of striking immigrant workers, including racist remarks to them about their origins, threats of deportation, etc.;
4. The arrest of a number of union members and organizers, for the obvious purpose of disorganizing picketing and demoralizing the strikers; etc.

Instead of obtaining redress of the causes for complaint, police harassment of the strikers intensified, until picketers at the Densley street locations of Artistic Woodwork Co. were regularly confronted with the Metro Police Emergency Task Force, headed by Inspector McGahey, leading some 100 to 150 men.

This Force daily coordinated its efforts, in para-military fashion, with the herding through picketlines of management-driven strike-breakers, often at dangerously high speed. Nearby traffic lights were altered for this purpose by the Police.

Under Inspector McGahey, the Metro Toronto Police adopted the tactic of gathering on a mound of earth, across the street from the picketers and, at a given moment, charging in force upon the workers' picketline, smashing it up, then surrounded picketers, pressing them together in painful fashion, while certain officers, with identification numbers removed, kicked, knocked down, punched and beat up picketers. They pulled the hair of students and young people, assaulted women in disgraceful fashion, banged some people's heads repeatedly against walls, then arrested individuals who tried to identify or

report offending police officers (see trials of Dave Monie, 3 alderman Dan Heap, union organizer John Lang and many others.)

Meanwhile, management looked upon these gruesome scenes with satisfaction, its resistance to the workers' demands bolstered by such zealous police support and the strike thereby was prolonged.

In a few cases where we were fortunate enough to identify offending police officers, some of these were charged. In all cases, they were acquitted by the courts; often, in spite of contradictory testimony.

Metro Toronto Police Chief H. Adamson was quoted in the Toronto Star of February 14, 1974 as having stated that the police would investigate why a police officer's testimony was directly contradicted in the courts. According to the above-mentioned article, Mr. Adamson said he understood the Crown Attorney's office was "looking at this as well" (i.e. conflicting evidence by police in the courts).

However, Deputy Crown Attorney Peter Rickaby, when asked to confirm Mr. Adamson's statement, declared "I know nothing about it. It's new to me." (same article).

So far, we have heard of no cases where disciplinary action was taken against any such officer.

RENATO MAZUT - AGENT PROVOCATEUR

A further case in point, was that of Renato Masut, whom management finally admitted to having been a private investigator, hired from the Anning Services Ltd., a strike-breaking firm, subsidiary to the American Wackenhut agency.

Mazut paraded as a plant worker, attended all union meetings, picketed regularly in performance of his job, which was to infiltrate the union. He was conspicuous on the picketline for a Dustin Hoffman-type of hat he wore at all times.

The undersigned, who early suspected Masut as an agent, observed him on the picketline, taunting police repeatedly, as they watched him, yet failed to arrest him, until arrests became commonplace and anyone who wanted to maintain a reputation of being bold - as Masut obviously did - just had to get charged. In all, Masut was arrested twice.

On January 29, 1974, he was convicted on a charge of mischief and fined \$200. The second trial had been set for Feb. 27th, but Masut suddenly appeared in court on Feb. 14th, when the charges against him were dropped at the request of Crown Counsel N. Matusiak, noted for his "vigorous prosecution" of picketers and his much less vigorous prosecution of company foreman L. Mischuk, who was thereby acquitted.

In the second Masut case, Mr. Matusiak reasoned that the charges should be withdrawn, because the arresting officer had left the Force following an enquiry unconnected with the Artistic strike.

Crown Counsel felt that the circumstances of the officer's case undermined the credibility of testimony he would give. The officer in question, Roland Kotkowitz, #2232, apparently left the Police Force on Jan. 3, 1974. However, on Jan. 21, 1974, Kotkowitz did testify for the prosecution against Dinah Forbes, arrested on the Artistic picketline.

The question is: why did N. Matusiak, prosecutor in the case of Dinah Forbes, trust Kotkowitz then, yet invoke his lack of credibility to obtain that charges against Masut be dropped?

A further question: how many picketers were incited into actions, or pointed out to police for harassment or arrest, by agent provocateur Masut; and,

What is Management's responsibility in the matter?

On the other hand, when, after some eight weeks' deliberation, the Ontario Labour Relations Board gave "Consent to Prosecute" against Artistic Woodwork Company Limited, for failure to bargain in good faith, the Attorney-General turned down the Union's request that he prosecute.

THE CASE OF LUIGI GISMONDI

The case of Luigi Gismondi, a long-service employee at Artistic and a regular picketer, raises further questions as to the role of the police in the strike.

In negotiations during the strike, management insisted on not reinstating workers charged on the picketline. After much argument, management, while still insisting on suspending all workers faced with criminal charges, pending trial, offered to reinstate those who would be acquitted and declared its determination to discharge those who would be convicted.

The union pleaded for the rights of citizens against double jeopardy and the final settlement terms provided for the disposition of any complaints from charged employees (their names were written into the terms of settlement), by a single Arbitration Board.

In a negotiating session on November 24, 1973, management insisted that Mr. Gismondi's name be on the list of those charged. The union protested that he had not been charged and was told by management that "if he hasn't been, he should have been."

In the week of November 26th, Gismondi was charged on a summons, supposedly issued November 14th, for an offense, alleged to have occurred on Sept. 16, 1973.

Because of this, Gismondi was amongst those employees suspended from employment on settlement of the strike, December 3rd.

Subsequently, Gismondi was acquitted in the courts, whereupon the company changed his suspension to discharge.

On December 3rd, 1973, Union Counsel wrote to the Crown Attorney about the Gismondi case, requesting an investigation into the role of the police in allowing the company to use the courts to serve its anti-labour purposes. Nothing came of it, as far as we know.

JUDGE C.O. BICK, CHAIRMAN OF THE METRO BOARD OF COMMISSIONERS OF POLICE.

In a reply to a carefully documented letter from Union Counsel Endicott, who had requested an investigation of certain police actions in the strike, Judge Bick expressed indignation that such allegations should even be made.

Later, Judge Bick's bias against workers on lawful strike showed up in a report he issued, on January 24, 1974:, wherein he quoted Mr. Yaremko, then Solicitor-General, in regard to the Artistic dispute:

"It is implicit in the amendment (s. 20 of the Judicature Act) that the police are under a duty to assist, to protect and to take action "to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with, lawful entry upon or exit from the premises in question, or breach of the peace.

"There is much case law relating to picketing, watching and besetting and the granting of injunctions in labour disputes, but I have not thought it worthwhile to embark upon an examination of this case law. (emphasis ours. ed.) Section 381 of the Criminal Code (Canada) together with section 20 of the Judicature Act make clear that it is unlawful for picketers to do more than communicate information and that the police have

a duty to ensure that an owner is not unlawfully denied access to his premises."

Apparently, it did not occur to Mr. Yaremko, nor to Mr. Bick who quotes him, that precisely this body of case law, which they neglected to examine, clarifies the right to picketing.

Surely, workers are entitled to feel outraged at this disregard of their rights by those in authority, juxtaposed with a declared determination to uphold, by police force, the conflicting right of the employer;

We hereby request that witnesses, attending with our delegation, be permitted to testify before this Commission, to give further evidence of reprehensible police activities in the Artistic strike.

To those of us who have experienced the strike at Artistic Woodwork Co. Limited, it is clear that:

1. The laws which protect the employer's right to break a workers' lawful strike are speedily, forcefully and sometimes brutally enforced, especially when the Metro Toronto Police Emergency Task Force is on the scene;
2. Such police show no understanding of, or respect for, the elementary democratic rights of the workers and the democratic right of concerned citizens to uphold workers, in pursuit of their lawful activities;
3. Laws which are in flagrant contradiction with each other, such as toothless labour laws on the one hand and sections of the Criminal Code protecting private property, can only lead to the law of the jungle, especially when the property laws alone, are zealously enforced by the police;
4. Attempts to communicate with Chief Adamson and with most other police, on the workers' complaints, only led to further harassment by police against picketers;
5. Chief Adamson has proved to be uncritical of offending officers, has appeared to have taken no effective measures to correct obvious abuses by members of his Force and has failed completely, in the Artistic case, to fulfill his responsibility to the public, in performance of his office;
6. Judge C. J. Bick, by his statement of January 24, 1974 and by previous statements, has thrown the weight of his office in the balance, favouring an anti-labour employer, protecting offending police officers to the prejudice of workers on lawful strike;
7. In the particular circumstances of the Artistic strike, which involved low-paid, largely immigrant workers, upholding their right to join a union for the first time, the Metro Toronto Police of the Emergency Task Force acted in most repressive, discriminatory fashion, against these less favoured workers, striving towards a measure of social justice;
8. Besides discriminating against foreign-born workers, police on the Emergency Task Force further singled out for discrimination students and women, as though they were unaware of

the democratic right of citizens to demonstrate, by joining the picketline, their sympathy and support for the workers' cause;

9. The cost to the Artistic workers and to other citizens, who were assaulted and charged under the Criminal Code, for expressing their concern for the cause of immigrant workers, constitutes a grave injustice, for which the authorities who direct the Metro Toronto Police are largely responsible;
10. The Police Force, supported by the tax-paying public, cannot have the confidence and respect of concerned citizens and particularly of union men and women, if it allows itself to be used as an instrument of anti-labour management bent on breaking a lawful strike;
11. To allow such an unhealthy situation to continue, is frustrating to those police officers who are conscientious in performing their duties. In this respect, we are happy to note that many police officers are expressing their concern over this situation,

While we are not making specific recommendations, the above eleven points would indicate areas where we feel corrections should be made.

RELEVANT COMMENTS FROM QUEBEC JUDGE JULES DESCHENES

In conclusion, we quote remarks by Quebec Superior Court Chief Justice Jules Deschenes in a judgment, rendered on Sept. 16, 1974, regarding the Montreal transit strike. It would seem to us to be relevant to the role of the police and courts in strikes such as that at Artistic Woodwork.

"It is to the future that we must look and try to ponder new methods to resolve new sorts of disputes, which our forefathers would not have dared to imagine.

"But this effort of imagination, this adaptation, which is necessary to the realities of our time, must be made by the political power. It does not have the right to leave the judicial powers to rule on social conflicts within the unsatisfactory framework of our present laws. It does not have the right to unload on the judicial powers its political obligations and leave the solution of these disputes solely to the extreme weapon of contempt of court.

"Until the political authority finds solutions appropriate to these social conflicts, I am of the opinion that the Superior Court must not lend its authority to the crushing of a mass of citizens by fines and imprisonment..."
(emphasis ours. ed.)

The suppression by force of the working people's striving for social justice will only challenge them to struggle harder for values, indispensable to a decent way of life.

We note that the Province may order a public enquiry in these matters.

Let us hope that those who may conduct the future enquiry will look at the issues in the broader perspective, envisaged by Judge Deschenes.

There will remain the task of implementing significant recommendations, before there are many more Artistic strikes.

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(See attached documents.)

THE CASE OF VICKY TRERISE

Ms. Trerise, a law student at the University of Toronto, was charged with common assault on November 12, 1973, on the Artistic strike picketline. At her trial on December 20, 1973, P. C. Ormsby testified that a tall female kicked him on the left shin and clutched his tie and throat. He and another officer then seized her and took her to the police van. P. C. Martin corroborated his evidence and replied negatively when asked whether he or P. C. Ormsby had grabbed her face.

Ms. Trerise testified that she had moved down to the parking lot and observed a woman being dragged by her hair and that she called to the officer to let her go. She then stated that an officer moved towards her, grabbed her face and pulled her hair. She further denied that she had taken hold of his throat, pulled off his tie or kicked him.

At this point in the trial, C.I.T.Y. T.V. videotapes were introduced. According to journalist June Callwood:

"No matter how many times it (the videotape) was viewed, it showed the police bumping into Ms. Trerise, grabbing her, slapping her across the face and pulling her by the hair. At the conclusion of the arrest, the Sergeant could already be seen. He was unruffled and his tie was intact. At no time did she kick or even touch him.

"The judge dismissed the case, but others arrested during these hectic mornings on the picketline have not been so fortunate as to be able to present such irrefutable evidence of their veracity and the convictions continue to roll in."

(letter printed in the Toronto Star,
January 8, 1974.)

STATEMENT BY RICK SALUTIN, VOLUNTEER ORGANIZER FOR THE UNION

Picketers at the St.Regis plant (Artistic Woodwork Co. Ltd.) were treated to a variety of petty harassments during the early days of the strike. The following are a small number which illustrate the attitudes of police toward picketers:

On Thursday, August 23, about 11:15 a.m., Officer #1383 interrupted a conversation between picketers and a worker by coming from the other side of the plant in his squad car, putting the worker into his car and driving her into the plant, without investigating or asking questions.

When he was asked by the union organizer why he had done so, he said that he had had a complaint from the plant manager. When asked whether he took orders from the plant manager, he replied "yes, I do."

In further conversation with the organizer, he stated that "there is no such thing as an illegal intervention on my part. I'm a police officer. I can come and go as I please."

At about 1:10 on the same day, a company truck pulled out and when the picket line was conducted across the driveway, the same officer instructed the driver to drive through it. When the picket captain asked whether he was telling the driver to drive over the picketers, he replied "That's right".

This officer and his partner in car #3214 then drove right through the picketline, with no audible warning and hit one of the strikers, Eric Taylor, on the leg. An official complaint was filed with Inspector Cook at Pct. 31 that afternoon in regard to officer #1383.

On Friday, August 24th, at approximately 10:00 a.m. a car drove through the picketline and hit striker Joe Pomponi on the leg. Striker Z. Papaconstantinou went over to the officers in car #3214 and asked them to come and see what had happened. When the officer replied that it was none of his business, Mr. PapaConstantinou asked him "Are you just for the Company?" The officer replied "Yes".

During the afternoon, officer #853 called Ashwani Saini, (an immigrant worker from India) a "Bastard" and made several racial slurs were made by other officers.

On August 27th, at 7:00 a.m., officer #166 told Mr. Salutin "he would get him". Later he arrested Mr. Salutin and had him held for $7\frac{1}{2}$ hours. Furthermore, Mr. Salutin was denied his right to telephone counsel from the police station.

(Note: The above are excerpts from a statement by Mr. Salutin, submitted by Union Counsel, Norman Endicott, to Chief Adamson, on Sept. 6, 1973.)

THE CASE OF DAVID MONIE

Mr. Monie, an executive member of the Brampton and District Labour Council, was charged with common assault on November 14, 1973, on the Artistic picketline. At Mr. Monie's trial on Jan. 17, 1974, P. C. Trempe and P. C. Rothwell alleged that Mr. Monie rushed from the picketline, pushed P. C. Trempe on the right shoulder and kicked his left shin.

Mr. Monie testified that he was experienced in strikes and was giving financial and moral assistance to the picketline at Artistic Woodwork.

While linking arms with other picketers, he was kicked by a policeman; the officer then smiled, and kicked him again. Mr. Monie stated that he intended to charge the policeman and attempted to reach Inspector McGahey. As he tried several times to get across the road, expressing his desire to reach Mr. McGahey, he was seized by four officers. Then P. C. Hoker took off his hat with his identifying badge and kicked Mr. Monie in the groin, kidneys and under the arm.

At this point, photographic and videotape evidence completely corroborating Mr. Monie's testimony was introduced by the defense, and this, together with the evidence of four defense witnesses, served as the basis for Mr. Monie's acquittal.

When Mr. Monie subsequently laid a charge against P. C. Hoker, the officer was acquitted on the grounds that his identity had not been established, despite the fact that two witnesses identified him by facial features and Mr. Monie himself identified him by his badge number, which he had seen prior to P. C. Hoker removing his hat.

THE CASE OF PETER DORFMAN

Mr. Dorfman was arrested for picketline activity in the early part of the strike by P. C. Travers, who had arrested Lee Zaslowski, another picketer, on the same day.

Mr. Dorfman was dragged to the police van by P. C. Travers, who, once they were in the van, hit him in the face, punched him in the stomach and forced him to recite "cops are tops". Subsequently, Mr. Dorfman laid a criminal charge against P. C. Travers. At the trial, P. C. Travers was acquitted of the charge on the basis of his testimony that he had been nowhere near the police van, during the time in question.

However, at Mr. Zaslowski's trial on Jan. 7/74, he was convicted on the basis of P. C. Travers' testimony, which included the statement that he had personally taken Mr. Zaslowski all the way to the van. Travers also testified that Mr. Zaslowski was arrested within minutes of Mr. Dorfman's arrest.

At Mr. Dorfman's trial in March, P. C. Travers also contradicted himself on several significant points, and as a result, Mr. Dorfman was acquitted. A very real question now arises as to whether Mr. Zaslowski should have been acquitted also.

THE CASE OF JOE CHRISTIANO

Joe Christiano, a long time employee at Artistic Woodwork Company Ltd., was arrested on August 27, 1973 on the picketline, when he ran over to offer help to a fellow-striker, Pol Kozis, who had been knocked unconscious. At his trial, both police witnesses testified that all the arrests made at that time were made when they were the only policemen present.

However, neither testified that either one of them had personally arrested Mr. Christiano. In spite of this important omission in their testimony, Mr. Christiano was convicted.

As Mr. Christiano, like others, was suspended from employment due to his arrest on the picketline, he was later discharged by the company as a result of this conviction.