8 STRIKE LEADERS SENT TO JAIL

APPLICATION FOR BONDS IS REJECTED

Ivens, Russell, Queen, Heaps, Bray, Armstrong and Pritchard Behind Bars

DEFENDANTS TAKEN TO CELLS BY MOUNTIES

Refused bail by Justice Cameron, of the court of appeals, the eight strike leaders charged with sedition went to jail this morning.

While their bondsmen waited in readiness to place their signatures on the documents that would allow them liberty pending trial at the October assizes, the men were taken quietly to the provincial jail and registered.

They raised no opposition.

Defendants Jailed

The men are R. B. Russell, R. J. Johns, Alderman A. A. Heaps, William Ivens, George Armstrong, Alderman John Queen, W. A. Pritchard and R. E. Bray.

Denial of bail was formally made in the chambers of Justice Cameron. At the appointed hour of 11 o'clock Sidney Goldstein appeared for the prosecution. A. J. Andrews, K.C., special crown prosecutor, was absent at the hearing of the immigration cases. E. J. McMurray, chief counsel for the defense, was not in the room. Mr. Goldstein found him. The justice announced that he had denied bail and handed over a written decision to the attorneys. Mr. Goldstein and an officer of the Royal North West Mounted Police took charge of the men and together the party went over to the provincial jail.

Apparently the men went with light hearts. There was some banter.

From the time of their release from Stony Mountain penitentiary, following their arrest on June 17, until the close of their preliminary hearing Wednesday morning, they were at liberty under $8,000 bonds. During the interim between their commitment and the denial of bail this morning they were released under an undertaking of counsel.

Bail at first granted the men was fixed at $4,000, but was coupled with an undertaking not to take part in the strike, to make speeches or to give out newspaper interviews. Protest, however, was raised against the undertaking on the grounds that it prevented the accused men from saying anything in their own defense and it was finally removed, but the bail was doubled.

Following the removal of the ban on speech, the men again interested

themselves in giving publicity to their side of the matter. Several of them toured the east in the interest of their case and of the defense fund raised in their behalf.

That their activities during the period following their arrest that they were at liberty was one of the grounds for refusing bail was made clear this morning by Justice Cameron.

Three reasons were given by Mr. Cameron for refusing the application. In his judgment he declared that "On consideration of the whole matter as it is presented to me; in view of the vitally important issues from the standpoint of he public that are involved; and having in mind the attitude of the accused throughout, I am of the opinion that I must decline to make the order sought on this application."

Section 698 was given as authorly for Mr. Cameron to either refuse or make the order for bail.

Application Refused

Justice Cameron's judgment in full follows:

"The accused are charged for that they did in the years 1917, 1918 and 1919, conspire and agree with one another, and with other persons to the informant unknown, to carry into execution a seditious intention, to wit: to bring into being hatred and contempt and to excite disaffection against the government and constitution of the Dominion of Canada and the government of the province of Manitoba and the administration of justice, and also to raise discontent and disaffection against his majesty's subjects to to promote feelings of ill-will and hostility between different classes of such subjects, and were thereby guilty of a seditious conspiracy."

After taking evidence at length at the preliminary hearing the police magistrate committed the accused for trial. An application is now made to me for an order to admit them to bail.

By section 14 of the Criminal code the distinction between felony and misdemeanor is abolished "and proceedings in respect of all indictable offenses . . . shall be conducted in the same manner." By section 698, "In case of any offense . . . where the accused has been finally committed . . . any judge of any superioar or county court having jurisdiction . . . may, in his discretion, on application made to him for that purpose, order the accused to be admitted to bail, etc."

It is contended that in this case the charge is one of felony and not of misdemeanor and that, therefore, the accused are entitled to bail as of right. The argument is based on the judgment in R. v. Fortier, 6 Can. Cr. Cas., 191, where Mr. Justice Wurtele held that as respects indictable

offenses which were felonies before the enacting of the code, it is within the discretion of the judge to allow or refuse the application for bail, while, with respect to indictable offenses, which were formerly misdemeanors, bail must be allowed, as the accused is entitled to it as a matter of right. On the argument before Mr. Justice Wurtele the private prosecutor was represented by counsel who, while not acquiescing in, did not object to, the bail being granted. The crown was not represented by counsel. The learned justice in his judgment does not refer to the above cited provisions of the code, which so far as we can judge, were not pressed on his attention.

Judge's Powers Wide

No, it seems to me that these provisions are clear and explicit. By section 14 proceedings in respect of all indictable offenses are to be conducted in the same manner, without reference to the former distinction between felonies and misdemeanors. Yet Mr. Justice Wurtele held that this distinction still sub-cited in applications for bail which are, beyond doubt, proceedings in respect of indictable offenses. And, in an application for bail in case of an offense as specified in section 698, the judge is given the fullest discretion. He "may in his discretion," make or refuse the order. With every appreciation of the weight to be attached to the decisions of Mr. Justice Wurtele, I am convinced that the plain intention of parliament was to confer the widest possible discretion upon the judge saving the exceptions stated in section 698, which is dead, and on the subsequent section.

Some of the grounds on which bail may be properly refused are set forth in the judgment of the Fortier case, but these are not, nor are they intended to be, exclusive. I must here consider the nature and gravity of the charge; recent events in the history of this community and its present circumstances; the character of the evidence brought out at the preliminary hearing, and the conduct of the accused from the time they were released from custody after their arrest.

No undertaking is now offered that the accused will refrain from continuing to make public utterances which may be essentially repetitions or elaborations of those under the investigation of the magistrate at the preliminary hearing and which are to be placed before a jury in due course. It is a fact that such an undertaking was previously given by the accused and not adhered to. The reason or excuse assigned for this repudiation of a solemn obligation cannot be entertained.

On consideration of the whole matter as it is presented to me, in view of the vitally imporant issues from the standpoint of the public that are involved, and having in mind the attitude of the accused throughout, I am of the opinion that I must decline to make the order sought on this application.

The case of re Frost, 4 L.T.R. 757, was cited as an authority favoring the contention put forward on behalf of the accused. But, as I see it, the express provisions of our code supersede the state law as it existed at the time of that decision and the judge before whom such an application as this is made has now full discretion in all the offenses mentioned in section 698, of which this is one.