

CHAPTER TWENTY-TWO

On March 5, Andrews began his address to the jury. “May it please Your Lordship and gentlemen of the jury: We are now at the close of one of the most important trials that has taken place in this country,” he announced.

Andrews was in fine form. A reporter for one of the newspapers wrote, “[Andrews’] command of language was brilliant and he displayed an absolute mastery of his subject throughout.”

The Crown’s first order of business was to defend its own position. Andrews explained that the Crown had to choose from among those lawyers who stood behind constituted authority or those who lined themselves up with the strikers. Naturally, the Crown chose lawyers on the side of constituted authority.

Andrews’ argument was untenable and provided a false dichotomy. The federal government did not have to choose between the two types of lawyers described by Andrews. And personal beliefs are not the usual basis for hiring a lawyer. There were many able lawyers, and the Crown would have had little difficulty in appointing an impartial prosecutor.

Andrews reminded the jury that the accused were presumed innocent until “the Crown has offered such evidence as convinces you of their guilt, and gentlemen, speaking for myself, no one will be better pleased than I if your duty turns out to be the pleasant one of acquitting the accused.” Furthermore, he told the jury that their duty was lightened because they did not have to weigh two sets of evidence.

In his address, Andrews sought to show the defendants had each participated in a nation-wide conspiracy:

What is a conspiracy? I fancy most of you remember sufficient of your Latin to know what it means – ‘con’ meaning together and ‘spire’ to breathe – breathing together, acting in common. It does not mean they sat down and signed an agreement to act together in bringing this seditious intention into execution [...] Now the charge here, gentlemen, is not a charge of sedition, it is a charge of seditious conspiracy, and in order to find the accused guilty, you must find first – that there was a seditious intention. You must find, second – that there was a conspiracy, and third – that these accused were parties to it [...] I had better refer you to the reason why, as applied to this strike, it was an illegal strike. The indictment alleges that the general strike must necessarily compel employees and workmen who are engaged under contract to break their contracts [...] [According to Section 409 of the *Criminal Code*] it is a crime to break a contract that will endanger human life.

In an effort to lend credence to his argument, he reminded the jury that the indictment had been held to be valid by Justice Metcalfe and the Court of Appeal in the Russell trial.

Next, Andrews turned his attention to the general condition of labour. In doing so, he attempted to demonstrate a sympathetic attitude toward labour, and he accused the defendants of inciting unrest without due cause:

Much has been secured for labour, and gentlemen, I don't believe that the accused in this case can so hypnotise you as to blind you to the facts of your own eyes and your own experience, when you know that never in the history of this country, was labour in such a good position as it is at the present time. Never had they so much money, never did they wear such good clothes, than they do at the present time, and I am very proud to say that there is no country in the world where the workmen get better treatment than they do right in this Canada of ours [...] What were the times, gentlemen, when this commenced? Peace had not been declared, and as you will see, these people who were concerned in spreading this propaganda realised that the time was ripe for spreading discontent, after our resources and energies had been taxed to the limit, when nerves were unstrung. It was very easy to cause trouble; soon afterwards the boys were coming back from the front – some of them unquestionably loyal, not all, some of them coming back with hatred of discipline. It was upon this soil that these persons who were sowing the seed scattered the poisonous weed of discontent [...] Gentlemen, there is not one of you who doesn't know that there is no greater or sweeter thing than work, honest work, which is done cheerfully. None of us have ever regretted any honest work that we have done – work for our families, for our loved ones [...] These men say that it is a vice; they would induce a community of workmen to work three hours a day. That is the doctrine that they have been preaching [...] They commence sowing the seeds of discontent, preaching the doctrine of hate. They go to the artisan, who is rearing up his family in contentment, satisfied with things and believing that his children are going to have something better and say, 'You are wrong, you must not be contented, you must be discontented.' They get that man educated along those lines, and when the time comes, he will arise. They are starting that here. This is the beginning of this Revolution [...] These men, these conspirators would have the country a seething mass of discontent. They prate about the freedom of speech; I wonder if I went to address them, how long they would listen to me. Are these men, who talk so much about freedom of speech, ready to listen? Is that your experience, gentlemen? You know it is all clap-trap.

At this point in Andrews' speech, Queen burst into laughter. But Andrews used the outburst to give further fuel to his fire:

Like the laugh of the man who doesn't realise his position, the man who sits here laughing at you gentlemen, who but for the fairness of the judge, would be sitting in the dock, instead of sitting at the table where he is. I call your attention to the –

Before Andrews could finish, Queen objected to the comment: "I want to take objection to that statement of Mr. Andrews in which he said I was laughing at the jury; his actions provoked the laugh." Justice Metcalfe stated that he could not see anything humorous in the situation and cautioned Queen that if he wished to do any laughing, he had better do it to himself.

It was a brief interruption, and Andrews' dramatic speech continued; this time, he denounced the defendants for their lack of patriotism:

Gentlemen, I am stating the truth as God tells me, telling the truth of these things as I honestly see it, and if it provokes laughter it will not be among the good-minded citizens in this room. Perhaps, gentlemen, that sort of thing might be expected from the accused Queen [...] The flag means nothing to these men, but what does the flag mean to you? The flag – it is only a bit of cotton; it may be a piece of silk, but when you look at it and think that men have died for it, when you think of how in times past a man has wrapped it around him – that British flag – and no one dare touch him – we love that flag, for it is the emblem of our loyalty [...] And it is the best instincts of humanity that prompts that love for our country that causes us to worship our flag.

Referring to the meeting at the Majestic Theatre, Andrews continued his attack:

Remember this language spoken when our poor boys were coming back from the war; they had been seeing the atrocities of the German people. They had been fighting against fiends and they heard that. Was it any wonder that the riots of the latter part of January followed? A feeling of discontentment had been worked up and a number of loyal returned men decided to do what they could to put a stop to it. If no further evidence was submitted by the Crown than those two meetings, I contend that there is ample evidence for you to bring in a verdict of guilty against those who have been connected with the meetings [...] Some of the accused say the *Communist Manifesto* is a historical book and can be found in every library. But, remember this [...] a druggist and a doctor sells poison but you don't want it in your coffee. A doctor has properly written books, but you don't want your children to read them. Had it not been fortunate for the good of this country that the Crown succeeded in seizing this literature and that will be one of the complaints of the accused that they went in the dead of night and seized it, but such things have to be done in the interests of society and the welfare of the country.

While he spoke, Andrews spent considerable time referring to Ivens' speeches, once again demonstrating his strong dislike for Ivens: "What kind of a man is it that is always seeing wrong in others? Is it because of the lily-whiteness of his blameless life, he believes he is the one pure man?" Andrews read a passage from one of Ivens' speeches and accused him of abusing his role as a minister:

'[Capitalism] calls the militia to its aid whenever its suppression becomes intolerable, and the workers cease work, such is the contemptible system. It has its avaricious claws upon every phase of life. It robs the worker at the cradle,' – and reading from his own report in his own paper, mark you, – 'robs the worker at the cradle, the sick bed, the meal table, the street-car, and of the clothes he wears, and when weary at last he lies down to his last long rest, the grimy fingers are put upon his coffin and his pall.'

What a pity this man, with such a command of language, should prostitute his God-given eloquence to the cause of pulling down everything good in our constitution and in our framework of society, doing all he can to make the satisfied dissatisfied, to set class against class, to fan the flames of discontent until it breaks out in very revolution [...] Instead of preaching contentment to these men, they are always pointing to someone who has a little more. What is the secret of content? – Being

satisfied with what I have. It is not looking at my more fortunate neighbour and envying him his better motor car and better house; it is being satisfied with what I have and being thankful God has given as much as He has given me. Probably He has given me more than I deserve, and that is what contentment is and the real secret of happiness.

Continuing with this argument, the Crown described the Labour Church as a camouflage for the preaching of seditious doctrines:

Their doctrines are intended to make you forget all you ever were taught at your mother's knee. Their aim is to remove the word duty from the dictionary and substitute pleasure and vice. The whole vile doctrine preaches duty to class first, self before country [...] It is impossible for Ivens to come here and argue that because he was not at the Calgary Conference he is not as much responsible for it as everyone who went there. He may say, although there is no evidence of it, 'I am not a Socialist.' Gentlemen, I leave it to you whether he has not out-done all of them in his revolutionary ideas in his attempt to disturb society and set class against class, in this community.

Although all of the defendants were exposed to Andrews' criticism, Ivens bore the brunt of the attack.

On March 9, Andrews was prepared to continue his address when Sheriff Inkster advised the court that one of the jurors, James Jack, was ill with the grippe. Justice Metcalfe instructed that Jack be taken to hospital to aid in a speedy recovery. The court adjourned until March 15.

On March 15, Jack returned to the jury and Andrews continued his address. This time, he turned his attention from Ivens to the other defendants:

The evidence is that Johns was not in Winnipeg during the strike [...] After hearing of his great activities throughout, you will agree that Johns was as much responsible as any one of the accused. The accused Johns spoke about the revolution that was coming, and he hoped it would be a bloodless one. But the burglar who comes to your house at night does not want bloodshed, he doesn't want a struggle, but if he is well armed, and before you waken he is able to point his gun at your head, he says, 'I am a peaceful man; I do not want any struggle, I am armed.' [...] Not only did Queen and Heaps take part in the strike as members of the Strike Committee, but also as members of the City Council when they had sworn a solemn oath to serve the citizens of Winnipeg impartially [...] You have heard throughout the attacks of the accused on the Royal Northwest Mounted Police and their so-called spy system. You, gentlemen, and the people of Canada, owe a debt of gratitude to this force for the evidence they have brought here which shows a condition that you and I never dreamed of [...] If you believe the evidence, and I don't see how you can disbelieve it, you have to convict the accused of a hundred crimes. The Crown has only laid a charge of seditious conspiracy. It is a good thing for Canada and the future that there has been laid bare this poisonous system of propaganda that has been going on in our midst.

Andrews' closing address was complete. Now, it was left to the defence to undo the damages.

CHAPTER TWENTY-THREE

W.H. Trueman, K.C. opened the speeches for the defence with a bold and eloquent address on behalf of Abe Heaps. He began by reiterating the notion that the courtroom was being used as a weapon in the long-standing battle between capital and labour. Then, he broached the issue of freedom of speech. Trueman wondered whether Andrews was "alive to the gravity of the issues" raised in the trial. Was Andrews aware that they "reach down to the fundamental things of our British constitution and to the roots of great principles of British liberty established in our law?" In defence of freedom of speech, he gave his "entire approval" to the conduct of Bill Ivens, who as editor of the *Western Labor News* refused to be gagged by the censorship imposed by Orders-in-Council.

At this point, Andrews intervened to raise his objection. In support of the Crown's objection, Justice Metcalfe reprimanded the defence counsel for his defiance:

ANDREWS: I object, My Lord, to my learned friend telling the jury that he approves of the actions of the editor of this paper in defying the laws. He has openly stated so.

METCALFE: Look that passage up, Mr. Reporter, I was otherwise engaged at the moment.

TRUEMAN: I said, My Lord, that if I had been the editor of the paper I would have done the same thing as he did.

METCALFE: Mr. Trueman, these orders-in-council were in force and you will have to withdraw that statement or stop. I can't sit here in this court of justice and hear you openly defy the law [...] I won't let you state facts not contained in the evidence. Either you'll have to stand by my rulings or you'll have to quit.

Trueman argued that he was clearly within his right, but the judge was unyielding.