

The Strike of 1983 or

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Ask any of the longer-serving teachers if they remember the strike of 1983 and many of them will have a store of vivid memories. Some will speak nostalgically of our Picket Players; others of the warmth and solidarity; others of the snow and cold on the picket lines. Each of us has a story or two to share. The particular story I have been asked to share with you is the story of how we led the legal struggle against government decrees and oppressive laws.

Our collective agreement took effect in 1979 and should have lasted until December 31, 1982. However, in April, Premier René Lévesque announced that his government would face a financial crisis if it were to respect the salary increases to which it had previously agreed. The government needed, he believed, to negotiate a salary freeze and abolish those increases scheduled for the last six months of the contract. The government, he said, had no intention of acting unilaterally. One week later, the government announced that, if the unions did not agree to a salary freeze, the only alternative would be to eliminate 17,000 posts in the public and para-public sectors. Five days after this, Lucien Bouchard, chief government negotiator, gave the unions an ultimatum: "Accept the salary freeze within a week or the government will legislate to end the collective agreements and impose a wage freeze". The three union centrals, CSN, FTQ and CEQ (Centrale des Enseignant/e/s du Québec), countered by offering to negotiate salaries if the government sped up discussion of other issues. Rejecting this offer, the government passed Law 70 in June 1982, effectively breaking the contract it had signed with us. This law extended the collective agreements by three months, during which time it rolled back salaries by 18.85%, and denied any monetary increase for experience for a year.

Continuing its assault on the public sector, the government passed Law 105 on December 11, 1982. This law decreed the working conditions of the public and parapublic sectors. News footage showed truckloads of so-called "contracts" arriving at the National Assembly for passage as decrees. Law 105 meant, said the government, that these documents were "decrees taking the place of contracts".

The government apparently believed that this straitjacket of laws would allow its cash grab to succeed by scaring the workers and unions. This did not happen. Instead, by December 20, 1982, the Cegep teachers in FNEEQ voted with an 80% majority to call a strike at the opportune moment. On January 26, 1983, Cegep teachers spearheaded the strike of the Common Front, a group comprising 300,000 members. The strikes dominated the headlines. Neither side backed down. The government claimed that these strikes were illegal and broke labour laws because the workers were now

bound by "contracts." It acted to re-assert its authority by sending out around 30,000 summonses to striking workers to appear in labour court. I remember well the bailiff ringing at my door to have me sign for mine. All of us on the Executive at that time received the hand-delivered yellow document. Off we went to labour court, along with hordes of others. A scene of mayhem ensued in the impossibly overcrowded courtroom where various individuals responded to the charges by stating that they were no longer working at that institution, were on maternity leave, on sick leave and so forth. Meanwhile, the government continued its media campaign against what it termed "illegal and irresponsible striking workers."

We objected to these characterizations coming from a government that had torn up our contract. In many FNEEQ meetings, JACFA delegates had implored the unions to combat these laws and the government propaganda with legal challenges. Time after time, the FNEEQ executive responded that the CSN/FNEEQ lawyers saw no grounds on which to contest the laws. The union leadership, believing that the "battle will be won in the streets, not the courts," doubtless wanted to avoid any tactic they saw as undermining their strategy of massive strikes. Eventually, dissatisfied with the response, the JACFA executive decided to try for our own challenge. Jim Leeke (Labour Relations), John Sheshko (President) and I (Vice-President) met with Philip Cutler Q.C., a prominent labour lawyer. We outlined to him our many objections to the law and the need we saw to put on a very public and media-savvy show combating the government propaganda that we were all law-breaking, disreputable, and irresponsible teachers. After careful consideration, Cutler pronounced himself willing to carry our challenge

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“What Are Nice Teachers Like You Doing in a Place Like This?”

forward. He soon showed himself a brilliant legal practitioner whose Labour Code textbook the judge himself brandished in court and an able manoeuvrer around the legal circuit. Besides which, like Louis Laberge's (President of the FTQ) lawyer in the previous major public sector strike in 1972 when the three Centrals' Presidents were jailed, Cutler had proven experience in how to handle the media. Two days after this first meeting, we held a press conference in a downtown hotel to announce that we had served the Quebec government with notice of our intention to contest the legality and constitutionality of the laws under which we had been charged with labour offences. By now, we had asked those teachers in Cegeps Rosemont and Vieux-Montréal, who had also received summonses, to join forces with us. We did not want to be portrayed as a group of Anglophones fighting the Parti Québécois government; these local unions agreed that we shared a common cause.

The only other union to notify the government of its constitutional opposition to the laws within the legal deadlines was the small Syndicat des Professionnels. As none of the large union centrals or locals belonging to the centrals apart from us had done so, it meant that we became the precedent-setting case for the vast majority of those who had received summonses.

As the tactic of massive penal action in Labour Court did not bring the unions to heel, the government then resorted to extraordinary (in those days) tactics. It passed Law 111. This law contained many draconian sections. For example, it set the penalty for one day's strike at the loss of one year's seniority and two days' pay. Speech inciting others not to work led to penal charges, etc. As well, given that the regular labour courts could not process the immense number of people

summoned for being on illegal strike, the government transferred these cases to the common courts. This led to those of us at JACFA who had received summonses having our names posted on the notice board for Criminal Court and appearing in the Criminal Court division. Hence, the “What are nice teachers like you doing in a place like this?” question the guards asked us when we appeared at the Palais de Justice in Montreal to challenge the laws.

Incensed by the government's latest move, almost all JACFA members wanted to defy this oppressive law, even some who had chosen not to respect the strike up till then. However, the Executive believed it had no option but to urge the members back to work. If we did not return, potentially non-permanent or surplus teachers in other Cegeps who did return to work could take our jobs. So, after three days of defiance, we enjoyed a last skit by our much-loved Picket Players, then followed our bagpiper back into the college. We added Law 111 to our legal challenge.

Although we returned to the classrooms, the legal struggle continued. Fortunately for me, my last name was the first in alphabetical order of those of us who had received a summons here, so I enjoyed the fame and glory of headlining in court: Attorney-General of Quebec vs. Linda Collier. For a short period, I enjoyed seeing my photograph on the front pages of all major newspapers, doing radio and TV interviews, and revelling in my fifteen minutes of fame. Jim Leeke and I continued to spend hours plotting, consulting and learning legal procedures and manoeuvres as we worked our way through the courts. We also plotted, manoeuvred and consulted on another front: the three union centrals had never appreciated our legal initiative. Initially, FNEEQ had stated that they

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would support our challenge, but its Executive soon changed its mind as we refused to relinquish all control. We became an embarrassment and a major thorn in the sides of the centrals since they had no power over us. They constantly moved to thwart us. Two highlights of this struggle would be: the time Jim and I and our lawyers were called to a midnight meeting in the CSN building boardroom with about twenty union lawyers and higher-ups from the centrals; and the time a high-ranking Executive member in the CEQ passed on to us a \$10,000 cheque from the Canadian Union of Postal Workers as a contribution to the Legal Defence Fund we had established. The CEQ apparatchik mentioned that he wanted it to be clear that “there were no strings attached”. Duly impressed, we assured him that this was a first for us. We had never before received such a donation with an explicit mention of no strings attached! Then the politicking continued. We raised something like \$100,000 to cover the costs of our legal cases. Individuals and unions all over Canada sent us cheques; we made speeches and raised funds from many of our sister locals in FNEEQ as well as other Quebec unions.

Justice Gérard Girouard rendered the first judgement in the precedent-setting case of the Attorney-General of Quebec vs. Linda Collier on March 17, 1983. Of the many arguments we offered, the Judge singled out one to rule in our favour: that the decrees had been passed only in French but should have been in English as well to have force of law. The Government appealed. On appeal, Chief Justice Jules Deschênes of the Superior Court ruled against the Attorney General; the Government appealed yet again. Off we drove to Quebec City. (Quebec City because our case was parallel to that of the Syndicat des Professionnels and it had lost in the lower court). The Quebec Court of Appeal pronounced in our favour. Once again the government appealed. In February 1990, Jim, John and I had the excitement of attending the hearing in the Supreme Court of Canada. In this instance, the nine red-robed, ermine-sashed judges pronounced an unusual immediate judgement, from the bench, against the government.

What did our win at the Supreme Court achieve? It meant that individuals, local unions and the union centrals did not have to pay fines of about \$8 million. The government even had to reimburse – years later, with interest - the teachers whose administrations had deducted two days pay for each strike day under Law 111. (This had not happened at JAC). We did not win back any of the salary lost under Laws 70 and 105 because the government rapidly translated the decrees and passed retroactive legislation, putting an end to any legal action to recover lost wages. How successful were we in our struggle for justice and the protection of democratic freedoms? Although we entered the court battle with all kinds of legal arguments based on individual and collective freedoms, Judge Girouard restricted his judgement to the question of language. The fact that the decrees existed only in French, he reasoned, meant they were unconstitutional. To have the force of law in Quebec, decrees must be adopted in both French and English. The appellate courts necessarily only examined this argument. Now the Government can still decree working conditions but must do it in both official languages.¹ However, if you believe that we cannot stand by and merely shrug our shoulders when governments rule by decree, tear up contracts and attack civil liberties, then John Auboutte’s² actions both in and out of court stand as a contribution to the on-going struggle against the arbitrary use of power.

¹ Apparently the Liberals omitted to do this when they legislated public sector working conditions in December 2005.

² Our imaginative and creative strike actions earned us this nickname amongst our fellow union locals.

By Linda Collier