Judge Warns Rose To Remain Silent

Montreal Labour-Progressive M.P. Granted Bail of $25,000—Pamphlet Protests Banned

Montreal, March 29.—(CP)—Fred Rose, jailed for 24 hours, was granted bail of $25,000 to-day and warned sharply by Mr. Justice Wilfrid Lazure that he must not attend public meetings or make statements before the espionage charges under which he was arrested have finally been dealt with. Rose was returned to the court house cells pending posting of bail in cash or property bonds. Mr. Justice Lazure added a warning to Rose that his friends must conform to the restrictions and must not "distribute pamphlets of any kind." If these terms are not carried out, bail will be cancelled immediately.

May Attend Parliament

After the proceedings, Mr. Justice Lazure told the Canadian Press that these restrictions do not apply to Parliament, where Rose is federal member for Montreal-Cartier. He said Parliament has its own regulations that prohibit discussion of a case before the courts.

Rose's previous bail of $10,000 was cancelled yesterday when he appeared for voluntary statement before Judge Rene Tehberge, who presided at the preliminary hearing, and was committed for trial.

Rose spent the night in Montreal jail and appeared with his counsel to-day when application was made to the higher court. Mr. Justice Lazure at the time was sitting as a superior court justice, although the proceedings were in the court of King's bench.

Refuses to Lower Amount

His Lordship ruled that the $25,000 could be in cash or real estate. He refused to lower bail on request of Defence Counsel Joseph Cohen, K.C.

His Lordship said he was granting bail to help defence counsel prepare its case.

Rose was returned to the police cells in the court house pending posting of bail.

Rose stood at the bar while the decision was given by Mr. Justice Lazure.

Mr. Justice Lazure refused to lower the amount for a cash deposit but said real estate would be accepted to the value of $25,000 if cash is not deposited.

Speaks of Behaviour

Mr. Justice Lazure was sitting as a superior court justice, although in the King's bench court at the time. He said a judge of the superior court has the discretion to grant or withhold bail. It is not a right.

Usually the principal ground to be considered, he continued, is whether attendance at trial is to be secure. He referred to legal authorities which hold there must also be considered recent events in the community, existing circumstances and behaviour of the accused while at liberty on bail.

The feeling of the public had also to be considered, and existing sentiment in the community is "not exactly normal—certainly not in certain quarters of the community."

His Lordship then began to speak of the behaviour of accused while on bail.

At this point Mr. Gagnon mentioned circulars which were being distributed while the preliminary hearing was going on. He said that Rose had nothing to do with these circulars.

Mentions Past Record

Mr. Justice Lazure commented that distribution of the circulars did not come from the accused but the distribution had the effect of making the general conduct of the accused seem not very commendable.

He said the past record of Rose had to be taken into consideration and mentioned a previous conviction. He said far worse in his mind than the conviction were the obligations undertaken in 1942 by the accused not to do exactly what he now is charged with doing. They were solemn undertakings towards the government of his country.

His Lordship added: "This is strong ground to my mind not to grant any bail."

Notwithstanding, he added, he would release Rose because "I want to feel sure that in this court at your trial you will get justice," and he wished to aid defence in preparing its case.

"But I want to warn you, no more public utterances of whatsoever nature until your trial is over; no public meetings; you keep silent and tell your friends to keep silent also; no more pamphlets."

Bail Cancellation Possible

In no way, direct or indirect, was any comment to be made bearing on the case before the court.

"Otherwise, proceedings will be taken to have your bail cancelled. Bail is fixed at $25,000."

At Mr. Cohen's request, Mr. Justice Lazure said he would accept property bonds in lieu of cash.

In making the bail application, Mr. Cohen said that in the interest of justice and fair play, as well as the accused, bail should be fixed that would ensure Rose's presence at trial and also make it possible for him to help in preparation of his case.

Mr. Cohen maintained the crown had months to prepare its case, helped by the "ability of the R.C.M.P." and two Supreme Court justices sitting as a commission in investigating espionage activities.

Requires Time for Defence

He said all the crown's information had been sifted for the preliminary hearing lasting several days, and there also was produced "a mass of documents in a foreign language" which would have to be checked by the defence, "even as to its authenticity."

In reference to "press reports" of the possibility of a preferred indictment, Mr. Cohen said it had been mentioned that the defence may be forced to trial "in two weeks." In this event he thought it "common justice" that Rose should be able to "work with us."

Mr. Cohen said the case was of such a nature he would like to feel that at its conclusion, regardless of the result, the public could not say anything had been done to militate against a fair trial.

He said Rose was a member of Parliament with a mandate to represent several thousand electors in the Commons and it was his duty now to be in the House "unless and until the mandate is removed or suspended by proper authorities."

Subject to Law

F. Philippe Brais, K.C., special prosecutor, in objecting to Mr. Cohen's arguments, said British justice is on trial and while he did not wish to deny the accused all the facilities for a fair trial he believed the accused should also be "subjected to the rigours of the same law."

He recalled remarks of Judge Rene Theberge yesterday in committing Rose for trial when he spoke of "such a strong presumption of guilt" when bail was cancelled. Mr. Brais said he did not wish to influence the court but wanted to draw attention to the ruling following the "careful hearing."

At the arraignment, he continued, no other evidence was available than statements by Dr. Raymond Boyer, also facing charges, while at the preliminary hearing documents were produced which added considerably to the evidence before the court.

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