

## Sex, Court Records, and Labour History

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# RESEARCH REPORTS / NOTES DE RECHERCHE

## Sex, Court Records, and Labour History

Steven Maynard

COURT RECORDS have proven valuable in researching and writing the history of numerous aspects of the past. Recently, feminist historians have used court records to explore a variety of subjects, including the history of women's crime and the historical meanings and experience of rape and heterosexual conflict. Court records are also the primary source I have used to document the making of homosexual subcultures and identities in turn-of-the-century Ontario.<sup>1</sup> In what follows, I want to draw attention to one particular, relatively-unknown set of court records, housed at the Archives of Ontario: the Crown attorney prosecution case files. I want to highlight the potential of these records as a source for Canadian labour history.

<sup>1</sup>For example, see Karen Dubinsky and Franca Iacovetta, "Murder, Womanly Virtue, and Motherhood: The Case of Angelina Napolitano, 1911-1922," *Canadian Historical Review*, 72 (1991), 505-31; Carolyn Strange, "Wounded Womanhood and Dead Men: Chivalry and the Trials of Clara Ford and Carrie Davies," in Franca Iacovetta and Mariana Valverde, eds., *Gender Conflicts: New Essays in Women's History* (Toronto 1992), 149-88; Joan Sangster, "'Pardon Tales' from Magistrate's Court: Women, Crime, and the Court in Peterborough County, 1920-50," *Canadian Historical Review*, 74 (1993), 161-97; Karen Dubinsky, *Improper Advances: Rape and Heterosexual Conflict in Ontario, 1880-1929* (Chicago 1993); Steven Maynard, "Urban Space, Policing, and the Making of Homosexual Subcultures and Identities in Ontario, 1890-1930," PhD Dissertation, Queen's University, in progress.

The files were produced by Crown attorneys while prosecuting cases before various Ontario criminal courts. As the state's prosecutor, the Crown attorney had any number of reasons to compile files of interest to the labour historian. There is, for example, much to be found in the Crown attorney's files (not to be confused with the records of the attorney-general) relating to the history of the Communist Party of Canada. Records pertinent to some of Tim Buck's early court appearances are here and, perhaps more importantly, so are files documenting the activities of lesser-known, rank-and-file Communists. For Toronto in 1932, for example, one will find the case files of eight men arrested and charged with being "members of [an] unlawful association — Communist Party."<sup>2</sup>

Other case files cover the efforts of Communist women in the Toronto free speech struggles during the late 1920s. In August 1929, Anne K. found herself before the Toronto Police Court, charged with "circulating seditious pamphlets." Anne, along with three other women charged with the same offence, were attempting to rally workers to protest the actions of the Toronto Police Department's infamous "Red Squad" and the official ban on free speech in Queen's Park.<sup>3</sup> The "seditious pamphlet" circulated by Anne and the other women was entered into the trial as evidence (figure 1). Most case files do not contain court exhibits, but those that do provide us with rare pieces of the material or artifactual history of the labour movement.

These cases highlight two important characteristics of the Crown attorney's files. First, given that very few records from lower courts such as the Police or Magistrate's Court have survived, the Crown attorney's prosecution case files are valuable because they do contain some significant runs of Police Court documents. Second, because many police departments still have yet to deposit many of their historical records with a public archival institution, the Crown attorney case files, often containing police department records, are indispensable in tracing the history of police operations. To the labour historian, these two features of the crown attorney case files are significant for they provide a way into the history of local state-level regulation of labour and the left.

The case files can also be used to help piece together further the history of strike activity and union organizing. Records from the Algoma District, for example, touch on the efforts of steelworkers in the mid-1930s to organize independent unions there. One case file contains a pamphlet handed out to workers as they went off shift at Algoma Steel Company's Sault Ste. Marie plant in March

<sup>2</sup>AO, Crown Attorney Prosecution Case Files, York County, 1932, RG 22, Series 5890, Temporary Box 3741.

<sup>3</sup>*Ibid.*, 1929, Temporary Box 3739. In accordance with a research agreement entered into with the Archives of Ontario in order to gain access to the crown attorney's files, the names of accused persons have been anonymized. For more on the Red Squad and the free speech struggles, see Tom McEwen, *The Forge Glows Red: From Blacksmith to Revolutionary* (Toronto 1974), 167-205.

1935. The pamphlet outlines the workers' grievances and urges the formation of the Steel and Metal Workers Industrial Union.<sup>4</sup>

One particularly detailed case involving a strike by northern Ontario bushworkers in 1934 further demonstrates the range of information and materials to be found in the Crown attorney's files. The case began with the arrest of three bushworkers while on the picket line during a strike in October of that year. Pointing again to the state surveillance of the labour movement, the file contains the notes of undercover police officers. Copies of form letters directed to the Crown attorney demanding that the charges against the workers be dropped reveal the letter-writing campaign organized by the Canadian Labor Defense League and the Women's Labor League. The file also contains street posters written in Finnish and English which announced a "Mass Meeting" to protest the indictment of the bushworkers, as well as a poster from the "Young Worker Film Committee." Through a combination of textual and artifactual evidence, the file nicely captures the impressive degree of organization and the depth of political conviction among working-class women and men involved in the wave of strikes that hit the logging industry in 1933-35.<sup>5</sup>

It might be helpful at this point to make a few general remarks about the holdings, description, and arrangement of the crown attorney prosecution case files. In terms of spatial and temporal scope, the Archives of Ontario (AO) has case files for about 27 counties or districts, covering the years 1900 to the 1960s. The date, range, and the actual number of files that survive vary considerably from county to county. The amount of information contained in each case file also varies among files. Basic information usually includes the name of the accused, the charge, the date and court of trial, the plea, the verdict and (if found guilty) the sentence. For some counties, the court clerk also noted social characteristics of the accused, such as age, occupation, address, and religion. Files may also contain police statements and court depositions of witnesses, papers related to police investigations, trial transcripts, court exhibits and the Crown attorney's trial notes. Research using these files is not a speedy process, however, for they remain part of AO's unprocessed collection of court records. As such, they are stored off-site, in temporary boxes, and there is no finding aid. If you are interested in locating particular crimes, you must sift through all the files. Finally, there are restrictions on access to the Crown

<sup>4</sup>AO, Crown Attorney Prosecution Case Files, Algoma District, 1935, RG 22, Series 1090, Temporary Box 7. For more on the formation of independent unions in the steel industry during the mid 1930s, see Craig Heron and Robert Storey, "Work and Struggle in the Canadian Steel Industry, 1900-1950," in their, *On The Job: Confronting the Labour Process in Canada* (Kingston 1986), 226-35.

<sup>5</sup>*Ibid.* On the Algoma strike in the fall of 1934 and the wave of strikes that rocked the logging industry in the mid 1930s, see Ian Radforth, *Bushworkers and Bosses: Logging in Northern Ontario, 1900-1980* (Toronto 1987), 125-33. On the work of the Women's Labor Leagues, including their association with the Canadian Labor Defense League, see Joan Sangster, *Dreams of Equality: Women on the Canadian Left, 1920-1950* (Toronto 1989), 45-52.

attorney's case files. Normally, as provided in the *Courts of Justice Act*, the court's record of a case is open to public scrutiny. The Crown attorney case files, however, are considered to be a "personal information bank," and thus are covered under the restrictions of the *Ontario Freedom of Information and Protection of Privacy Act*. One must, therefore, make an official access request or enter into a research agreement with the Archives in order to use these records.

As mentioned earlier, my primary use of the Crown attorney's case files involved researching the history of sexuality. With my own background in labour history, however, I kept my eyes peeled for those moments when the history of sexuality and labour history overlapped. I was intrigued to discover a number of such cases, although what they revealed about the intersection of labour and sexuality was sometimes of a disturbing nature. Let me give a few examples.

Consider the 1925 case of Everard H. from Thessalon, Ontario. Everard's complaint was with a former employer at the Day Mills who refused to pay the \$7.50 in wages owed to Everard for road work. After several unsuccessful attempts to get the money from his employer, Everard drew a series of pictures which depicted his boss and several other men engaged in sexual acts with animals and a Native woman referred to in the drawings as "a squaw." Everard sent the drawings to two of the town's prominent clergymen. The scheme backfired and Everard soon found himself before a judge, charged with sending through the mail "certain obscene letters of an indecent and immoral character." Everard was found guilty, fined \$100 and sentenced to one year in prison.

Everard's case is interesting on a number of levels. It is significant that he attempted to settle his dispute not through recourse to the law, but by calling into question the moral and sexual reputation of his employer through a semi-public scandal. As Everard explained to the Ontario Provincial Police, "my idea of writing [the] letters was to simply give the Reverend Gentlemen a warning what sort of people they were preaching to." It is further evidence that while legal hegemony was increasingly consolidated in this period, including in the realm of workplace and labour relations, more popular forms of settling wage disputes continued to exist. At the same time, the way that Everard's drawings relied for their effectiveness on an ugly mixture of sexism, racism, and "unnatural" sexuality points to the contradictory political meanings and deployments of gender, race, class, and sexuality in history. It is also interesting to analyze the way in which, once the matter entered the courts, the focus of the legal process on issues of morality and obscenity had the effect of erasing from the proceedings Everard's claim to his wages.<sup>6</sup>

Another case in which sexuality surfaced in the context of a labour issue involved efforts to organize restaurant workers on the Danforth in Toronto during the labour revolts of 1919. Several male union organizers sent letters to women

<sup>6</sup>AO, Crown Attorney Prosecution Case Files, Algoma District, 1925, RG 22, Series 1090, Temporary Box 2.

coworkers who were reluctant to join the union, threatening them with sexual violence if they did not join up. The case reveals, in the context of a labour struggle when appeals to workers' solidarity failed, some workers turned to their gender identity as men, attempting to rely on the power of sexual coercion to force unity among the ranks. From the point of view of the women restaurant workers, the case brings to light that, in addition to undoubtedly facing sexual harassment from bosses and customers, women might also expect to encounter the threat of sexual violence within the labour movement. That charges were laid against the men and that the case ended up in court is also evidence that working-class women attempted to resist men's sexual antagonism.<sup>7</sup>

In the history of sex and labour, there are "happier" stories to be told. That they do not turn up in criminal court records is not surprising. But even the examples used here have a "positive" side. On a political level, case files such as these provide an opportunity to begin the urgent task of unpacking the historical construction of masculinity and sexual violence. On an intellectual level, the case files, I think, make a good case for "the analytical centrality of sex and sexuality within many different fields of inquiry,"<sup>8</sup> including labour history.

I hope this brief look at the Crown attorney case files hints at their potential richness as a source in Canadian labour history. At the same time, I do not want to exaggerate their importance; files like the ones I have discussed here are not to be found in great numbers. But those that do exist offer some additional documentation on such topics as the Communist Party, the role of women and youth in left-wing politics and the labour movement, strike activity, state surveillance, and on gender and sexual relations in labour organizing.

I will end on a personal and political note. Inspired by the modern lesbian/gay liberation movement, I have searched through these case files, attempting to piece together the history (if I may be ahistorical for a moment) of homosexual men. While the case files revealed strategies of everyday resistance employed by individual homosexual men, not surprisingly, there were no traces of more organized, collective forms of resistance. It was, therefore, heartening to come upon other case files that told the stories of Communist agitators, striking workers, and union organizers whose posters, petitions and letters — when at their best — held out visions of economic and social justice for working people. Sitting in the archives, there to research the history of sexuality, these files tugged on a different part of my identity. They tapped the sense of pride I take in my own working-class background, reminding me it has been on the left, in the efforts of working women and men, that we find a long history of collective struggle for change.

<sup>7</sup>*Ibid.*, York County, 1919, RG 22, Series 5890, Temporary Box 2732.

<sup>8</sup>"Introduction," Henry Abelove, Michele Aina Barale, and David M. Halperin, eds., *The Lesbian and Gay Studies Reader* (New York 1993), xvi.

FIGURE 1

(Front)

## **Workers of Toronto!**

**MAKE THE QUEEN'S PARK AUGUST 27th  
DEMONSTRATION A MIGHTY FIGHTING  
DEMONSTRATION AGAINST POLICE  
TERRORISM!**

**SMASH THE FASCIST BAN ON FREE SPEECH!  
FIGHT FOR THE FREEDOM OF THE STREETS!  
RALLY TO QUEEN'S PARK (BANDSTAND)**

**TUESDAY, AUGUST 27th, at 8 p.m.  
MASS DEMONSTRATION AND PROTEST  
AGAINST THE BLOODY SMASHING OF THE  
AUGUST FIRST AND THIRTEENTH  
DEMONSTRATIONS!**

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### **SPEAKERS :**

**JACK MACDONALD**, of the National Executive Committee,  
Communist Party of Canada.

**BECKIE BUHAY**, National Organizer, Communist Party of  
Canada.

**CHARLIE SIMS**, District Organizer, Communist Party of  
Canada.

**OSCAR RYAN**, of the National Executive Committee, Young  
Communist League of Canada.

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**WORKERS! WE MUST SMASH THE POLICE EDICT THAT  
AIMS TO THROTTLE THE COMMUNIST PARTY —  
THE PARTY OF THE WORKING CLASS !**

The bloody smashing of the August 13th Queen's Park Protest Demonstration by the Fascist Police thugs and hooligans calls for the mightiest display of working class unity — to resolutely answer this latest act of vicious police terrorism with the greatest demonstration in the history of the Toronto Labour Movement.

The Boss Class and their lickspittles—the social-reformists and American Federation of Labor misleaders—lead the present bloody attack on the Communist Party, because they realize that the Working Class is rallying to the Communist Party—is more and more determinedly uniting in the revolutionary struggle against Capitalism and its agents, lackeys and apologists!

**THE FIGHTING ISSUE IS CLEAR!  
CLASS AGAINST CLASS ! !**

"Free Speech" and "Free Assemblage" are "Rights" of the Working Class, wrested from the Boss Class through years of bitter and heroic struggle and sacrifice. They must be maintained and extended so that the revolutionary struggle of the workers against

(Back)

Capitalism can be carried forward to the final victory—the overthrow of Capitalism and the establishment of a Workers' and Farmers' Government in Canada!

The Fascist tools of the Bosses—Draper, Costasworth, the "Globe" and "Telegram"—call for a bloody suppression of Communism. The apologists and defenders of Capitalism—T. L. Church, Senator Lewis, Winston Churchill, Rev. Cameron, the British "Labour" Imperialist J. H. Thomas, etc., fear the rising tide of working class resistance, and frantically seek to drape the bloody monster of Capitalism with the cloak of "Democracy" and "Hypocrisy"!

### CLUBS FOR THE COMMUNISTS! BRIBES AND BLOOD MONEY FOR THE LABOUR FAKIRS!

Jimmy Simpson and the vile crew of A. F. of L. misleaders, as agents of the Bosses in the Labour Movement, boast of their treachery and hatred of the Workers' Party—the Communist Party. Draper and McBride realize the services that Simpson and the Trade Union Misleaders render to the Bosses in the savage onslaught against the workers! Blood money—\$1,500 for a servile parade on "Labour Day"—a guard of thugs and hoodlums to marshal a Queen's Park meeting—fitting tokens of the Bosses' appreciation for their vile aid in fighting the Communists and selling out the workers!

### SMASH THE BOSSES' OFFENSIVE! RALLY TO THE COMMUNIST PARTY!

Workers! The Communist Party is the only organization that is willing and able to lead the workers in revolutionary struggle to Defend the Soviet Union, to fight against Imperialist War, and against the Canadian Boss Class and their henchmen in the struggle for a Workers' and Farmers' Government!

Because the Bosses realize this they seek to smash the Communist Party! The Communist Party calls upon all honest workers—and all workers' organizations—to unite in this fight for the "rights" of Free Speech and Free Assembly, to smash the Fascist Police Commission's Edict against the Communist Movement! This attack is an attack on you! The workers must rally to Fight!

**RALLY TO QUEEN'S PARK IN MASSES!**  
**TUESDAY, AUGUST 27th, 8 p.m.**  
**DEMONSTRATE AGAINST POLICE TERRORISM!**  
**FIGHT THE BAN ON FREE SPEECH AND ASSEMBLAGE!**  
**FIGHT AGAINST IMPERIALIST WAR!**  
**FIGHT TO DEFEND THE SOVIET UNION!**  
**JOIN THE COMMUNIST PARTY!**  
**YOUNG WORKERS, JOIN THE YOUNG**  
**COMMUNIST LEAGUE!**

EXHIBIT No. 1		JOIN THE COMMUNIST PARTY	
Name	<i>Do Amel...</i>	Evidence was taken in Shorthand by	
Address	<i>2457</i>	<i>John Surh...</i>	
Bring or post	<i>1989</i>	Court Reporter.	
POLICE COURT, TORONTO		CHARLIE SIMS, District Organizer,	
Don't Police Court Clerk		Room 12, 163 1/2 Church St., Toronto 2.	

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