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REPORT
OF
THE COMMISSION OF INQUIRY
INTO MAIL TRANSPORT
IN MONTREAL

H. Carl Goldenberg, Q.C.
Commissioner

March 25, 1970

COMMISSION OF INQUIRY
INTO MAIL TRANSPORT IN MONTREAL

TO HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL.

May It Please Your Excellency:

Pursuant to P.C. 1970-492 I was appointed a Commissioner under Part I of the Inquiries Act "to inquire into the contracts that have been entered into for the vehicular delivery of mail in Montreal with effect from April 1st, 1970, and the status and rights of all employees presently involved in vehicular mail deliveries, including their collective rights, to report thereon and to recommend such measures in that regard as he considers equitable and desirable for the restoration of normal and effective service in Montreal".

The date of my appointment was March 17, 1970; the contracts which are the subject of my inquiry are effective April 1, 1970. The time available to me has therefore been extremely short. I have, nevertheless, succeeded in meeting with representatives of all concerned -- employees, contractors and the Post Office Department -- and to examine the principal relevant documents. On the basis of the facts as I find them, I beg to report as follows.

I. Background

1. The Post Office Act imposes a statutory duty on the Postmaster-General to "administer, superintend and manage the Canada Post Office".

2. Contracts for the transport of mail in the City of Montreal have for many years been awarded by the Postmaster-General to private firms on an annual basis without calling for tenders, the contracts being "temporary agreements" under Sec. 32 of the Post Office Act.

3. Under these contracts the Postmaster-General retains inter alia the authority to direct the contractor to dispense with the services of any courier, and couriers employed by the contractor must obey reasonable orders of the Postmaster. Because of the powers retained by the Postmaster-General, the employees contend that he is in fact their employer.

4. From about 1913 to March 1969 the contract for the City of Montreal was held successively by Canadian Transfer Co., Senécal Transport, and Rod Service Ltd., and each contractor appears to have retained in his employ the employees of his predecessor. The employees thus acquired a form of seniority: 352 now have seniority of more than two years, of whom 20 have seniority of 20 years or more; 88 have seniority of between 10 and 20 years; 85 have seniority of between 5 and 10 years; and 159 have seniority of between 2 and 5 years.

5. While there was continuity of employment, the employees nevertheless faced insecurity because the contracts were at all times awarded for one year only.

6. On October 19, 1965, Le Syndicat National des Employés de Rod Service (C.S.N.) was certified by the Canada Labour Relations Board as bargaining agent for the employees of Rod Service. Two collective agreements were subsequently negotiated with the active participation, although not as a signatory, of representatives of the Post Office Department. The last agreement with Rod was to terminate on March 31, 1970. Disputes between the Union and Rod led to strikes in 1966, 1967, 1968 and 1969.

7. In January 1969, Rod gave notice that it was withdrawing from its postal contract alleging among other reasons the reduction of postal service from six to five days. Negotiations with Rod having failed, the Postmaster-General announced that the Post Office Department would take over the service on March 15, 1969. The Union refused to accept this solution.

8. After a long slow-down by the employees, the Rod contract was transferred to G. Lapalme Inc. Lapalme agreed to employ up to a maximum of 397 employees of Rod Service Ltd., and to assume the collective agreement between Rod and the

Union. Both the mail contract, which was temporary, and the collective agreement were to expire on March 31, 1970.

9. The Lapalme contract did not cover the east end of the City from Iberville St., where mail transport had previously been assumed by the Post Office Department and the employees involved are now employees of the Public Service.

10. In 1969 the Government decided upon a major change in policy. By letter dated September 25, 1969, the Postmaster of Montreal advised G. Lapalme Inc. that its contract was expiring on March 31, 1970; that the Postmaster-General would call for public tenders for contracts for the transport of mail pursuant to the provisions of the Post Office Act; and that such contracts would be for periods of five years. Lapalme was invited to tender and to advise its employees before October 1, 1969, of the new policy and of the termination date of the existing contract.

11. Lapalme advised the Union accordingly and asked for its cooperation in preparing its tender. Considering that tenders would be based on rates of pay below those in effect under the collective agreement, the Union refused to negotiate. Accordingly, Lapalme did not tender for any of the five contracts covering the zones into which Montreal was to be divided.

12. The five contracts were subsequently awarded to Moses & Duhamel Inc., H. Lapalme Transport Ltd., Courrier M. & H. Incorporé (two contracts), and Ménard and Desmarais Inc. The contracts were signed between January 27, 1970 and February 9, 1970.

13. Considering that the Lapalme contract and the Union agreement were expiring on March 31, 1970, that their employer, G. Lapalme Inc., did not tender, and that the invitation to tender made no reference to the hiring of Lapalme personnel, the employees, facing insecurity and unemployment, began a series of rotating strikes and slow-downs, accompanied by violence, which have seriously disrupted the postal service since early February. As the March 31st deadline approaches, their fears increase. This is to be expected. The resulting situation calls for immediate action by the Government.

II. Findings and Recommendations

A. The New Contracts

My terms of reference call upon me to inquire into the contracts for mail transport in Montreal effective April 1, 1970, and "the status and rights of all employees presently involved in vehicular mail deliveries, including their collective rights".

The contracts in question are those recently awarded by public tender. I have already noted that, notwithstanding the special situation in Montreal, where, despite the uncertainty of annual contracts, the employees have had a high degree of continuity of employment -- 278 out of a total of 457 having seniority of five years or more -- the invitation to tender made no reference to the hiring of present personnel. In my opinion this was a serious omission. Although the Post Office was not their direct employer, its change of policy would directly affect the livelihood of the Lapalme employees. The Post Office was therefore under a moral obligation to seek to protect their employment as far as possible.

The question now arises whether the four new contractors will contribute to efficiency and the restoration of normal and effective service in Montreal desired by the Post Office.

I have come to the conclusion that they will not. Except for H. Lapalme Transport Ltd., whose contract is valued at \$489,000, the three remaining firms, holding \$2,731,000 in contracts, were non-existent prior to the award of the contracts to them. They appear to have been incorporated only after certain individuals who had submitted tenders were advised that their tenders were accepted. I am not in a position to pass a proper judgement on their bids but, on the basis of contemplated wage rates and the attitude to labour relations disclosed to me, I am of the opinion that they will be unable to fulfil their commitments within the fixed price and, at the same time, maintain industrial peace. Moreover, in the present climate of strife, none has as yet been able to organize properly to commence service on April 1st.

I point out further that Sec. 28 of the Post Office Act prescribes that every tender shall include an undertaking that, if the contract is awarded to the tenderer, he will, before the expiration of the time prescribed by the Postmaster General for entering a written contract, furnish to the Postmaster General "a performance bond in an amount and form approved by the Postmaster General" or one or two sureties in lieu thereof, if so requested by the Postmaster General. I am advised that, although the contracts were signed in late January and early February, 1970, none of the contractors has as yet furnished either a performance bond or sureties.

Considering all of the foregoing and the urgent necessity to restore normal and effective service in Montreal, I recommend that the said five contracts awarded by public tender be immediately cancelled. The responsibilities of the Crown to the contractors arising from such cancellation should be referred to the Department of Justice for consideration and advice.

B. The Service and the Employees

As things stand now, the Lapalme employees lose their status and rights as employees under their collective agreement on the expiry of the agreement and of the Lapalme contract on March 31st. This has created a state of fear, insecurity and demoralization which has led to destruction and violence. The reaction of the men is human and, therefore, understandable. The resultant action, however, can only do harm to the long run interests of all concerned: it must not be condoned.

Postal delivery service in Montreal has been subject to frequent disruption in the past few years. Operated on an annual basis by private contractors, there has developed a feeling of insecurity among employees which has encouraged a rising militancy. The Postmaster General has, in consequence, become increasingly unable to discharge the duty imposed upon

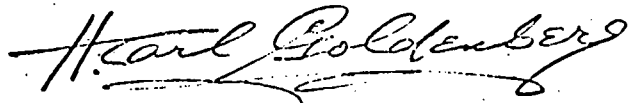
him by law to ensure mail delivery. It is relevant to note that the Union recognizes his responsibility, considers him the actual employer, and has called upon him to become a party to the collective agreement.

Considering that the situation in postal transport in Montreal is now serious; that the employees desire above all security of employment with due regard to seniority; that they in fact consider the Post Office as the actual employer; and that postal transport in the east end of Montreal is already operated directly by the Post Office, I have reached the conclusion and I recommend that the Post Office should assume operation of the postal transport service throughout the City of Montreal and that the Lapalme employees should be integrated in the Public Service of Canada in the order of their acquired seniority having regard to adjustments in requirements, the necessity of which is admitted.

The recommended integration should be effected jointly by the Post Office Department and the Public Service Commission with due regard to justice and the special requirements of the case. If this is done, the employees concerned will have achieved security of employment and will enjoy the other benefits and working conditions of Public Service employees. Their collective rights should be assured in the normal way by the Public Service Staff Relations Act.

If, as I believe, there is genuine concern both to restore normal and effective postal delivery service in Montreal and to protect the status and rights of the workers involved, all interested parties should co-operate in the implementation of my proposal.

The whole respectfully submitted.

A handwritten signature in cursive script that reads "H. Carl Goldenberg". The signature is written in dark ink and is positioned above the typed name.

H. CARL GOLDENBERG,
Commissioner

Ottawa, March 25, 1970