



WPA

Strike and Trials of 1939

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UNWELCOME NEWS awaited employees of the Work Projects Administration (WPA) throughout the nation when they returned to their jobs on the morning of July 5, 1939. It was their first day under the newly passed Emergency Relief Appropriation Act of 1939, and they found bulletin board notices posted at each project announcing a reduction in hourly wages and an increase in the number of hours of work required each month. In addition, the workers heard rumors that many of them faced termination of employment during the following weeks.

Unhappy with these developments, WPA employees in the Twin Cities and across the country refused to work under the new conditions. The result was a bitter two-week strike which shut down most WPA projects in the Twin Cities and led to consequences that were not fully realized until a month later when 162 individuals were indicted by a federal grand jury on felonious charges of conspiracy and intimidation of fellow WPA workers. A puzzling aspect of the Twin Cities strike, and one that enhances its significance, is the fact that the federal government chose to prosecute only WPA strikers in Minneapolis and St. Paul, although the WPA labor unrest extended to thirty-seven states and several major cities.

The 1939 Emergency Relief Appropriation Act that triggered the strike was guided through Congress by Representative Clifton A. Woodrum of Virginia and therefore known as the Woodrum Act. It had become

effective during a holiday weekend vacation for project employees. When the workers left their jobs Friday evening, June 30, none knew exactly what the provisions of the new act would be. The United States Senate passed it in its final form at 7:35 that evening, a little more than four hours before the end of the 1938-39 fiscal year. The bill reached President Franklin D. Roosevelt's desk for his signing at 10 P.M. Two hours later its provisions, including the cut in hourly wages for project workers, went into effect.

Before passage of the new relief act the government had been attempting to phase out some of its program of the 1930s of giving aid to the economically depressed. The severe depression ushered in by the crash of 1929 had altered traditional theories about public policy and had brought wide acceptance of the concept that the government has the duty to care for citizens who, through economic or physical circumstances, are unable to earn their own way. An early measure of Roosevelt's New Deal was legislation that set up the Federal Emergency Relief Administration (FERA) in 1933 and provided for outright grants to the states for relief.

Responsibility for direct relief was returned to the states and localities in 1935 when the FERA was terminated. Then a system of work relief, presumably of more assistance to personal morale than the dole, was instituted. Under authority of the Emergency Relief Appropriation Act of 1935, the Works Progress Administration (as the agency was then called) was created by executive order. Billions of dollars were spent in ensuing years for the WPA emergency public employment program that included much dubious "made work" but also turned out considerable worthwhile

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construction and other projects not attempted by private industry. A large proportion of WPA's female employees worked at sewing projects where more than 300,000,000 garments were produced for distribution to needy citizens and public institutions. Many millions of people benefited from WPA salaries, which were larger than previous direct relief payments but smaller than private industry wages.

Improvement in the national economy in the spring of 1937 prompted sharp cuts in WPA rolls. But a recession set in later in the year and by early 1938 some 10,000,000 people again were unemployed. State funds were in no way adequate to support the new relief load. After heated debates with advisers, President Roosevelt requested and received from Congress an appropriation of \$3,750,000,000 for public assistance programs, \$1,400,000,000 of which was for the WPA to employ an average of 2,050,000 people during 1939-40.¹

BEFORE THE Woodrum relief appropriation bill took effect in July, 1939, WPA workers had been receiving the prevailing hourly wage of the area in which their project was located. For a skilled craftsman, this meant that he was paid the prevailing union hourly wage, and each month he worked the number of hours required by this wage scale to make up what the WPA termed his "security wage."

The new act, however, stipulated that all project workers should work 130 hours a month for their security wage. (The bill was drafted as a means of standardizing the number of hours required of the diversely employed WPA workers.) A consequence of the revision would be a cut in hourly wages for all workers. The reduction would be greatest for building tradesmen and other skilled craftsmen who, though union members, would be working at less-than-union wages or scabbing in competition with their own unions. Another provision of the new law specified that the variation in monthly wages in different localities should not be greater than required by variations in the cost of living, which would result in a reduction in monthly wages for WPA workers in northern states. But, in apparent contradiction, the same provision stipulated that the current average wage be maintained.

Layoffs were prescribed in the new law as well. Section 15 required that all project workers, excluding veterans, who had been on WPA continuously for eighteen months be laid off—to be eligible for re-employment only after a thirty-day period. The provision did not state that those laid off would be re-employed; it merely said that after thirty days they were eligible to go back on the WPA waiting list in the assignment office.² Although intended as a measure to insure fair distribution of work, it took no account of

personal need or hardship accruing to jobless breadwinners not eligible for relief.

The rest of the anticipated layoffs were to result from the reduction in the amount of the appropriations—a cut so drastic that the average number of project workers for the fiscal year would have to be reduced by more than 1,000,000 to two-thirds of the number employed the previous year.³

On July 1, the date the law became effective, state administrators, district directors, and project supervisors were uninformed about how to interpret the act. This is evident from a statement issued on July 2 by Linus C. Glotzbach, Minnesota work projects administrator, that the old hours and pay schedules would continue in effect until a new pay period began. Uncertainty existed elsewhere in the country as well. On July 6, for example, WPA officials in Gloucester, New Jersey, had assured their workers that the old wage rates and working hours would be in force until July 13, the end of the current pay period.⁴

These interpretations conflicted with information posted on project bulletin boards the morning of July 5 that the new wage and hour provisions were effective for all workers as of July 1. On July 3 Glotzbach reversed himself when he proclaimed on radio station KSTP that the remainder of the current pay period would come under the new act, effective July 1.⁵ Be-

¹ For background on New Deal relief agencies, including the WPA, the following are useful: William E. Leuchtenburg, *Franklin D. Roosevelt and the New Deal, 1932-1940*, 124-130 (New York, 1963); Donald S. Howard, *The WPA and Federal Relief Policy* (New York, 1943); [U.S. Federal Works Agency], *Final Report on the WPA Program, 1935-1943* (Washington, D.C., 1947); Edwin E. Witte, "Organized Labor and Social Security," in *Labor and the New Deal* (Madison, Wisconsin, 1957); Works Progress Administration of Minnesota, *WPA Accomplishments* (St. Paul, 1939); and Elias Huzar, "The 'New' WPA: What It Is; How It Works," in *Survey Midmonthly*, 75:300 (October, 1939).

² *Minneapolis Tribune*, July 1, 1939, p. 1, contained a summary of some of the provisions of the new law.

³ The average number of persons employed on WPA during the six-month period, July through December, 1938, was 3,450,000; during the same period in 1939, an average of 2,020,000 was employed on WPA. See U.S. Department of Labor, *Labor Information Bulletin*, September to December, 1939, and January and February, 1940. The *Minneapolis Tribune* of July 31, 1939, reported that more than 12,000 WPA workers were being laid off in the state, 2,600 of them in Minneapolis.

⁴ *Minneapolis Tribune*, July 2, 1939, p. 1; *Minneapolis Star*, July 6, 1939, p. 6.

⁵ A copy of the radio address is in the file of Criminal Case No. 6964, 6965, and 7016, United States District Court, District of Minnesota, Fourth Division. These records are now stored in Kansas City, Missouri, and a copy is on file at the University of Illinois.

cause the radio address was delivered during the long holiday weekend, however, and because of the general confusion arising from conflicting reports, many WPA workers first learned of changes in their employment conditions when they reported for work on July 5.

Even then their information was sketchy. Many of them expected — incorrectly — that regular semi-monthly pay periods, for which schedules of hours and pay already had been prepared, would be regarded as a contractual obligation by the federal government. The unpleasant realization that this was not to be, the knowledge that some of the skilled craftsmen stood to have their hourly wages cut in half, the prospect of a cut in monthly wages for all workers, and uncertainty about any WPA employment during the following weeks and months — all contributed to the spontaneous decision of WPA workers, particularly in the building trades, to walk off the projects in Minneapolis and St. Paul on July 5.

The idea spread rapidly, and other WPA workers left their jobs. Soon some projects closed down, to be followed by others as pickets gathered in groups. On July 6 the *Minneapolis Tribune* concluded that virtually all WPA construction and grading projects in the Twin Cities area, heavily staffed by plumbers, electricians, steam fitters, and other union-organized tradesmen, were closed. By the end of the second day of the walkout in Minnesota, perhaps 18,000 men — including 10,000 in the Twin Cities, 3,000 in Duluth, 2,500 in Virginia, and 500 in Hibbing — had left their jobs and closed all major projects in the state. Similar walkouts were reported across the nation. Because of time difference, New York WPA workers — some 32,000 of them — were probably the first to strike.⁶

Despite the spontaneous quality of the strike, the absence of unified leadership, and threats from WPA officials that workers would lose their jobs if they did not return to work, there was no indication during the first few days that the strikers would weaken and go back to their jobs. At 10 A.M. on Monday, July 10, WPA officials in Minnesota announced that only 10 per cent of the Minneapolis projects and 50 per cent of the St. Paul projects were operating, all with re-

duced crews. The following day Minneapolis newspapers reported that white-collar projects also were being shut down. The *New York Times* estimated the total number of WPA strikers throughout the country at between 100,000 and 125,000.⁷

Showing restraint and responsibility, public welfare and allied project workers continued, by agreement, to report to work. Employees in nursery school and hospital-connected projects were urged by the strike committees to remain on their jobs, and they did. However, the Minnesota Federal Symphonic Band, scheduled to play an evening concert at Lake Harriet in Minneapolis on July 11, went on without its drummers, who refused to perform out of sympathy with the strikers in spite of orders from the American Federation of Musicians to go on with the show.⁸

Strengthening the commitment of the WPA strikers was the recognition quickly given their walkout by such elements of organized labor as the Minneapolis Building and Construction Trades Council, the Minneapolis Central Labor Union, the Minneapolis Congress of Industrial Organizations (CIO), the Federal Workers Section of Local 544 of the General Drivers and Helpers Union, and the Hennepin County branch of the Workers Alliance of America, a national organization of mostly unskilled WPA workers and the unemployed which had been formed in 1935 to educate and radicalize the unemployed. On July 8 a strike committee was formed of representatives from the building trades unions, Local 544, and the Workers Alliance.⁹

MEANWHILE, in New York, the Building Trades Council observed that the walkout decision was spontaneous but likewise endorsed the move and declared a "strike to the finish" to compel Congress to restore union wages on WPA projects. Then, too, an American Federation of Labor delegation met in Washington, D.C., on July 8 with the commissioner of work projects, Colonel Francis C. Harrington, to protest the wage and hour provisions of the relief act. National CIO representatives also called on Congress to restore the former wage and hour provisions, and on July 9 AFL President William Green called a Washington conference of the presidents of 100 AFL unions "to organize all the political and economic strength we possess in an effort to prevail upon Congress to amend the WPA Act."¹⁰

In previous WPA disputes, WPA administrators had automatically closed down projects until the grievances were settled, and Minneapolis union leaders urged WPA officials to follow this policy precedent in the Twin Cities. Instead, the officials took a different tack.

On July 6 WPA Administrator Glotzbach issued

⁶ *New York Times*, July 6, 1939, p. 1, said that officials of the New York City Building and Construction Trades Council claimed that "practically all" of the 32,000 WPA construction workers had quit. The same paper also reported work stoppages in New Jersey, Wisconsin, Iowa, Ohio, and Florida, as well as Minnesota.

⁷ *New York Times*, July 8, 1939, p. 1.

⁸ *Minneapolis Tribune*, July 12, 1939, p. 1, 2.

⁹ *Minneapolis Tribune*, July 8, 1939, p. 1.

¹⁰ *New York Times*, July 7, 1939, p. 1; *Minneapolis Journal*, July 9, 1939, p. 1, 4; *Minneapolis Tribune*, July 9, 1939, p. 1.

an order that all workers not back on their jobs on Monday morning, July 10, should be fired and replaced by eligible persons from the assignment file. Grounds for the dismissal would be "failure to work for three days previous to the date of discharge." Minneapolis Police Chief Frank B. Forestal also announced that police protection for nonstriking workers would be granted if it should be requested.¹¹

Within a short time, threats against the strikers accumulated. A communication from Washington ordered that workers absent from their jobs for five consecutive days should be fired, making it necessary for Glotzbach to revise his earlier three-day ruling. Relief would be denied to workers who had been dropped from WPA because of strike activity, the dictum read, and possible "racketeering" in connection with the walk-out was being investigated.¹²

The WPA administrator in New York, Lieutenant Colonel Brehon B. Somervell, threatened to prosecute the strikers on felony charges. The full import of Section 28 of the Woodrum Act was hinted at as the United States attorney in New York was reported to be studying the clause, intended to prevent political manipulation of WPA workers, which read in part: "Any person . . . who knowingly, by means of any fraud, force, threat, intimidation, or boycott, or discrimination on account of race, religion, political affiliations, or membership in a labor organization, deprives any person of any of the benefits to which he may be entitled under any such appropriations, or attempts to do so, or assists in so doing, . . . shall be deemed guilty of a felony." The penalty for violating this section was a fine of not more than \$2,000 or imprisonment for not more than two years, or both.¹³

Undaunted by this prospect, the WPA strikers stayed out. And, as predicted, the decision to keep the projects open with the aid of police resulted in physical confrontations between strikers, nonstrikers, and the police.

THREE widely-publicized instances of violence drew national attention to the Twin Cities walkout. The first took place at the close of the workday on Monday, July 10, when several policemen escorted nonstrikers through a crowd of pickets around a building that housed a WPA sewing project at 123 North Second Street in Minneapolis. There was a scuffle in the crowd, and the death of Policeman John Gearth a few hours later was widely reported by newspapers as connected with the disorder. Within a few hours, however, the coroner issued a statement that the patrolman had died as a result of chronic heart trouble and that pummeling in the strike disturbance had not contributed to his fatal attack.¹⁴ One Frank Fisher, a nonstriker whom

the police were protecting that day, charged that he suffered several injuries in the fracas. Following this disturbance the sewing project was closed and remained so until Friday when the national five-day dismissal ruling persuaded some of the workers to return to their jobs at the project.

A second outbreak of violence occurred on July 12 at the office of the University of Minnesota research project at 200 Southeast Harvard Street, on the edge of the campus. Numerous pickets had gathered at the building entrance when nonstriking project workers arrived in the morning and had congregated again in the late afternoon at quitting time. But there was no disorder, according to later court testimony, until one Philip Slaughter came to check out for the day. Testimony revealed that Slaughter had made a knife during the noon hour and was carrying it concealed in a notebook. In a scuffle as he left, he stabbed one striking picket and cut the hand of another.¹⁵

A third violent incident erupted at the North Second Street sewing project building on the evening of Friday, July 14 — the first day the project had been open following the disorder of the preceding Monday. The day before, Assistant State WPA Administrator Sidney L. Stolte reported his belief that a large number of employees would return to work on Friday if police protection could be assured. He got in touch with Police Chief Forestal who announced that all his available men, including motorcycle and traffic officers, would be on strike duty at the project.

Workers entered the building Friday morning without trouble, but as the 200-odd nonstrikers were about to leave at 7:00 P.M., the police opened fire on the gathered crowd with both tear gas and guns. Emil A. Bergstrom, an aged relief client, was shot and killed, and seventeen persons were injured. They included a girl, a boy, and six men wounded by gunfire; seven men, four of them policemen, gassed; a policeman injured by a thrown missile; and a woman hurt in the confusion that followed.¹⁶

Later that evening Mayor George Leach of Minneapolis announced on the radio that the problem was no longer under the jurisdiction of the city police and that he had asked for federal action: "In order to avert civil war in Minneapolis, I have advised Mr. Glotz-

¹¹ *Minneapolis Star*, July 6, 1939, p. 1 (quote); *Minneapolis Tribune*, July 6, 1939, p. 2.

¹² *Minneapolis Journal*, July 12, 1939, p. 1.

¹³ United States, *Statutes at Large*, 53:937.

¹⁴ *Minneapolis Journal*, July 11, 1939, p. 1. Both the sewing project incident and the coroner's report were carried in the same issue.

¹⁵ *Minneapolis Tribune*, July 13, 1939, p. 4.

¹⁶ *Minneapolis Journal*, July 15, 1939, p. 1, 3.

back . . . that from now on we will assume no responsibility for the conduct of these federal projects.”¹⁷

No longer able to implement his open-projects policy, Glotzbach replied: “Inasmuch as experience in Minneapolis has indicated that there is considerable danger to the workers who desire to work on these projects and the city refuses to accept responsibility for the orderly operation of same, I have given instructions to the Minneapolis office of WPA that all projects of the WPA in Minneapolis with a certain few exceptions will not open for work Monday morning. The excepted projects deal primarily with human welfare.”¹⁸ During the following week, the joint strike committee met with Glotzbach in the office of Governor Harold E. Stassen. An agreement was reached, and on Friday morning, July 21, the projects reopened and workers returned to their jobs. Terms of the agreement follow:

1. Those who had recently received 403s (WPA discharge slips) and desired to return to work would be promptly reassigned. Previously discharged workers who wished to be reassigned, however, would have to sign an affidavit that they had not engaged in illegal activities in violation of the federal relief law. If federal authorities had proof that an individual had violated the federal law, he or she would not be reassigned.

2. Those who did not wish to return to work at the wages and under the conditions provided in the new act would forfeit their jobs and would permit those who wished to work to do so peacefully.

3. Those projects to which skilled workers refused

to return would be operated if possible by skilled workers from the relief rolls, and those that could not be operated would be closed. Related unskilled workers would be assigned to other projects.

4. Interruption of employment resulting from the strike would not be considered as affecting the 18-month continuous employment regulation in regard to layoffs.¹⁹

Governor Stassen maintained in a radio statement that this agreement represented a retreat by the strikers on all their demands. Mayor Leach complained with equal conviction that the WPA had made a “disgraceful surrender” to the strikers on practically all points.²⁰

PROJECT WORKERS returned to their jobs on Friday, and on the following Monday the federal grand jury convened in St. Paul to investigate whether WPA

POLICE ARRIVED at the North Second Street sewing project on July 10 to disperse individuals who blocked the entrance.



¹⁷ *Minneapolis Journal*, July 15, 1939, p. 3, carried a complete text of the talk on KSTP.

¹⁸ *Minneapolis Tribune*, July 15, 1939, p. 12.

¹⁹ *Minneapolis Tribune*, July 20, 1939, p. 1.

²⁰ *Minneapolis Tribune*, July 22, 1939, p. 1, 2 (quote).

WPA SEWING PROJECT employed jobless women.

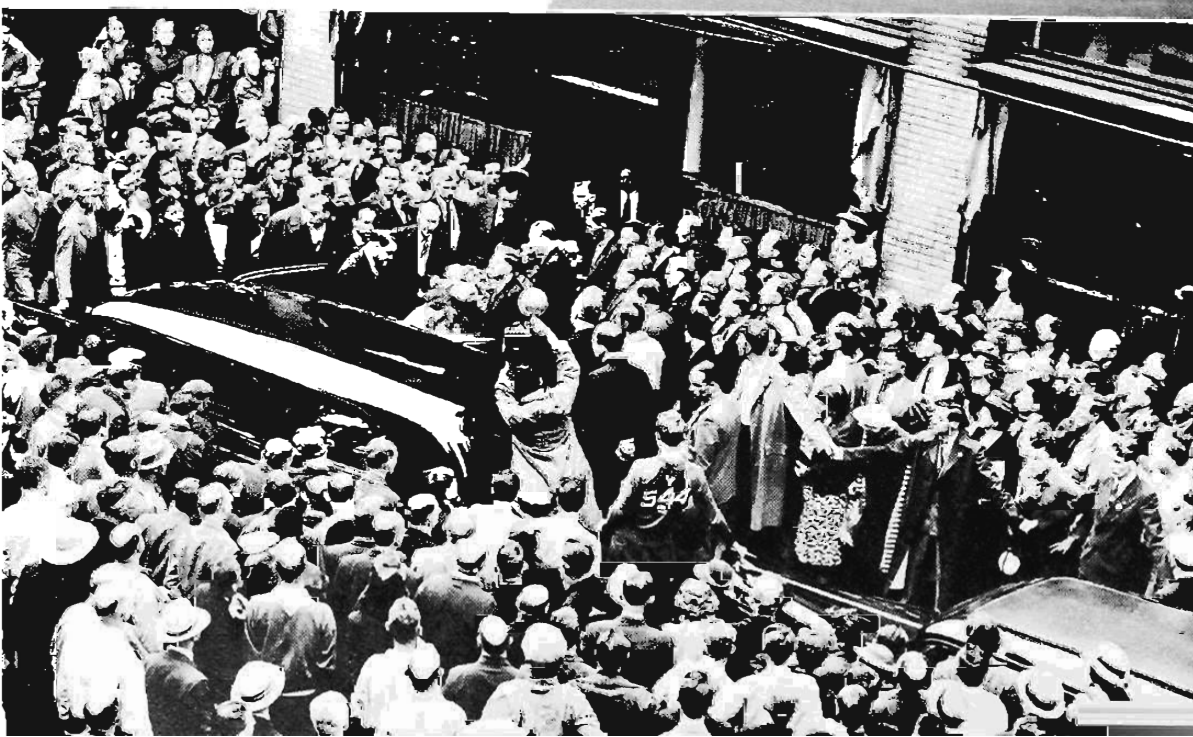
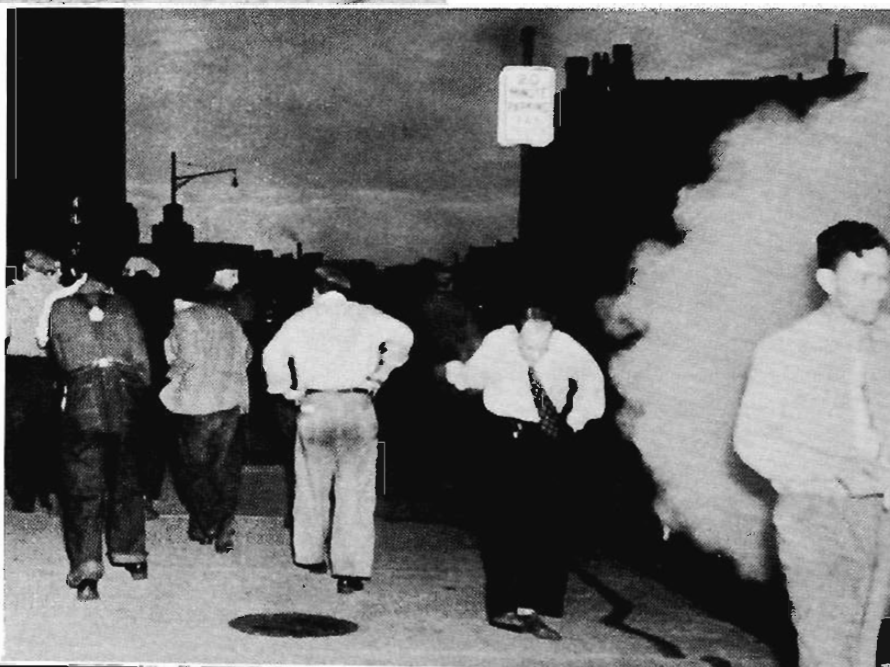




BACKED UP with riot guns, police cleared a path through the assembled pickets for women returning to the sewing project on July 14.

AS WORKERS LEFT the project on July 14, police fired their guns and tear gas into the crowd. One aged relief client was killed and seventeen others were injured.

AN OVERFLOW CROWD jammed the Central Labor Union auditorium on July 18 when funeral services were held for Emil Bergstrom, killed in the July 14 fracas.



employees had violated the 1939 relief appropriation law. Victor E. Anderson, United States attorney for the Minneapolis district, scheduled Federal Bureau of Investigation agents to testify before the grand jury. It was then revealed that some twenty-five FBI agents had secretly donned overalls and posed as pickets and bystanders at the sewing project.²¹

Before any grand jury indictments were made public, some WPA workers began receiving discharge slips that specified "reported illegal activities" as the reason for termination of employment. Subsequent dismissal slips said "not needed on project" or gave a similar cryptic explanation.

The result of the grand jury investigation, which lasted almost three weeks and considered the testimony of almost 200 witnesses, soon became known to the WPA workers — but not through ordinary information channels. The outcome was revealed to many in the middle of the night or in the early morning hours as they were rudely awakened in their homes, handcuffed to an armed federal marshal, and taken to jail.²² Other arrests were made in the daytime, the captives being paraded through the streets in handcuffs to the Hennepin County jail where they were "mugged." The photographs were then released for publication in the local newspapers.

Understandably, this highhanded procedure terrified the involved households and other WPA workers who had participated in any way in the incidents. No one knew who would be next. The grand jury never made public a list of persons indicted for fear they would "escape," but many of those who heard that they were being sought presented themselves at the federal marshal's office of their own accord.²³

No evidence ever came to light to indicate that any of the indicted WPA workers tried to run away or even avoid marshals. Although practically all of them had recently worked on WPA, were certified for relief

in the Twin Cities, and had lived in the community for years, some of them were difficult for marshals to locate. In one case a St. Paul man, who had lived at the same place for seven years and whose correct address was on file at the project where he worked, voluntarily surrendered after learning that a marshal was tracking him in Minneapolis.

In all, 162 persons, 55 of them women, were officially indicted on August 18.²⁴ More than a hundred were charged with "intimidation" or "use of physical force" to prevent WPA workers from reporting to their projects — a felony under the Woodrum Act. Conspiracy charges were later added for good measure to most of the indictments.

Federal District Judge Robert C. Bell set individual bails as high as \$5,000 and \$10,000 for the first group of forty-three strikers arrested. The group's bail totaled \$213,000, or an average of about \$5,000 per person.²⁵ Neither the \$60-per-month WPA workers nor local labor organizations were able to post this amount in bond. As soon as the arrests began, however, the Minneapolis Central Labor Union formed a defense committee to secure a reduction in bail and to provide bond for the release of the rapidly increasing number of WPA strikers in jail.

After three weeks of effort, the Central Labor Union's defense committee lawyers managed to get the bail reduced, and the Minneapolis Labor Temple Association pledged its property for bond to secure the release of all strikers who were in jail as well as those who were arrested subsequently. The pledging of the Labor Temple property was described in the national news commentary magazine, *The Nation*, as "a remarkably generous, and rare, gesture of solidarity between organized labor and the unemployed." By this time, though, many of the defendants had been in jail from several days to several weeks. A number of the defendants in the first trial, which opened in the United States Courthouse in Minneapolis on October 3, 1939, were apprehended on August 22 and released on September 13 after spending twenty-two days in confinement. Some defendants, including most of the women, were released earlier on their own recognizance.²⁶

THE WPA DEFENDANTS were not tried individually. Rather, they were tried in groups according to the time and place of the misdeed they were charged with having committed. There were ten groups altogether, the number of defendants in each group ranging from four to ninety. Judge Matthew M. Joyce, a former chief counsel of the Minneapolis and St. Louis Railway, presided at all the WPA trials. The first eight defendants to be tried in a group were charged with

²¹ *Minneapolis Tribune*, July 24, 1939, p. 1.

²² *Minneapolis Star-Journal*, July 22, 1939, p. 1.

²³ Dwight MacDonald, "WPA Cuts — or Jail," in *The Nation*, 150:121 (February 3, 1940).

²⁴ *Congressional Record*, 76 Congress, 2 session, Appendix, 700. The number of indictments was stated as 163 in a November 2, 1939, speech by Congressman Lee E. Geyer of California, but the *Minneapolis Tribune* of October 18, 1939, placed the number at 162.

²⁵ *Minneapolis Star-Journal*, August 22, 1939, p. 1, 4. The *Minneapolis Tribune* of August 23, 1939, exaggerated only slightly when it estimated that total bond might reach \$250,000.

²⁶ MacDonald, in *The Nation*, 150:121. The exact amount of reduction in bail, as well as the time of arrest and release on bond, is on record in Criminal Case No. 6964, 6965, and 7016.

having conspired and engaged in acts of violence and coercion at the university project.

Dramatized in court was the knifing incident. Philip Slaughter testified that he carried the knife that day because he was taking it home to his wife. He used it in self defense, he said, when he was kicked and hit. He acted out the scene for the judge and jury by waving his outstretched arms in front of his face to show how he had tried to ward off blows and flying objects — not with the intention of cutting anyone.²⁷ Upon questioning, however, he admitted that, in his efforts to defend himself, he had accidentally cut the thumb of one picket and the arm of another. The pickets, he said, had blocked his way as he tried to enter the university project building to check out for the day.²⁸

The defendant whom Slaughter charged had kicked him managed to discredit his testimony somewhat. The man testified that he was crippled in his right leg from a childhood case of poliomyelitis and unable to stand on one leg without losing his balance. Therefore, he maintained, he was physically unable to have kicked Slaughter.²⁹

Calling into question the charges of violence and coercion, several nonstrikers, testifying for the defense, said that they had checked in and out at the university project on July 12 without being molested.³⁰ All of the defense witnesses and several of the prosecution's testified that picketing had been peaceful and orderly and that no one was disturbed until Slaughter arrived. Slaughter's homemade knife was never produced in court, but it was rumored that the weapon was in the possession of Victor Anderson, the government attorney. The *Minneapolis Tribune* also noted that Slaughter had been fined \$50 after admitting that he had wielded a knife in the disorder at the university project and that he had been given a one week's stay.³¹ When he was asked in court if he had paid such a fine, he denied that he had.

At the end of the first trial the defense prepared a list of no less than forty-two "requested instructions" to the jury. One request was that the jury be instructed: "If you believe from the evidence that one or any of the defendants herein were guilty of an assault and battery or other minor offense, such facts, standing alone would not justify you in returning a verdict of guilty under the law under which the indictments in this case were returned." The request supported the defense contention that misdemeanors belong in police court, not in a federal courtroom.

Relative to the conspiracy charge, defense counsel requested that instructions to the jury specify that "the burden is upon the Government to satisfy your minds beyond a reasonable doubt,

"1st: That an unlawful conspiracy or agreement was entered into between the defendants or two or more of them.

"2nd: That the conspiracy was for the specific purpose of depriving a W.P.A. worker of the benefits he was entitled to under the [1939 *Emergency Relief Appropriation*] Act.

"3rd: That two or more of these defendants, acting in unison, did certain things for the purpose of carrying out the purpose of the so-called conspiracy." ³²

The defense's requests regarding instructions to the jury were denied. Instead, Judge Joyce instructed the jury that a defendant need not have known other defendants previously nor need he have been present at the conception of the plot. If at any time he co-operated to obtain the unlawful results of a conspiracy, Joyce maintained, he became a partner who assumed responsibility for that which went before and thereby became a co-conspirator.³³

The judge balanced this somewhat by cautioning the jury, in this trial and the subsequent ones as well, that the defendants had a right to strike and to try to induce others to join them through peaceful picketing. He admitted and rejected testimony on the premises that the defendants had these legal rights, that they were not being tried for such activities, and that the charges against them were, rather, conspiracy and intimidation.³⁴ Throughout the proceedings the defense stressed evidence and testimony to show that the defendants had engaged in legitimate strike activities and that no conspiracy had existed.

In accordance with these instructions, two of the eight defendants in the first trial were acquitted after Tom Davis, formerly a state legislator, an unsuccessful candidate for attorney general on the first Farmer-Labor ticket in 1918, and now head of the legal staff for the defense, argued that the prosecution had failed to prove that either of them had been present at the office of the university project during the disorder of July 12. Five of the remaining six defendants were adjudged guilty of intimidation, and four of them were also found guilty of conspiracy by a jury composed of

²⁷ *Minneapolis Tribune*, October 6, 1939, p. 1, 10.

²⁸ Because the cases were never appealed and testimony in court was never transcribed, the only record of such testimony is that in newspapers and periodicals. The court files include only written motions and printed material relating to the cases.

²⁹ *Minneapolis Star-Journal*, October 11, 1939, p. 17.

³⁰ *Minneapolis Tribune*, October 12, 1939, p. 1, 7.

³¹ *Minneapolis Tribune*, July 21, 1939, p. 2.

³² Criminal Case No. 6964, 6965, and 7016.

³³ MacDonald, in *The Nation*, 150:121.

³⁴ *Minneapolis Tribune*, October 20, 1939, p. 1.

seven farmers, a filling station attendant who was a former deputy sheriff, a restaurant operator, a hardware dealer, a real estate dealer, and a retail lumber salesman.³⁵ Some of the national press was moved to comment on the absence of any labor union affiliations among members of the jury.

The second trial of WPA workers revolved around an incident at a Wayzata Boulevard gravel pit project. The trial of the four defendants lasted less than three days, compared with more than two weeks for the previous trial. The prosecution called only a few witnesses who testified that they had been threatened with assault. One said that a defendant had hit him; another related that two of the defendants had walked into the pit and ordered some sixty to eighty men to quit their jobs.³⁶ The defense called no witnesses, and on October 20 three of the four defendants were found guilty.

THE THIRD TRIAL was the longest and involved the largest number of defendants and witnesses. U.S. Attorney Anderson moved to try a group of ninety defendants, but, after protest from the defense, Judge Joyce set the maximum number of persons to be tried at one time at twenty-five. Fourteen women and eleven men went on trial on October 31 for the alleged violence at the sewing project on July 10 and July 14 in which one person was killed and several were injured.

The court record shows that defense counsel devoted considerable effort to challenging the method of selecting the jury. Prior to the trial, attorney Tom Davis moved for a seventy-two-hour recess in order that he might have time to investigate the seventy-five talesmen from whom the jury was to be picked. Judge Joyce denied the motion.³⁷

The defense counsel's concern with the jury selection was based on a contention that the press, particularly the Twin Cities dailies, had prejudiced the public mind against the defendants, and that no union members appeared on the list of prospective jurors. In a written statement to the court, defense counsel Davis maintained that the Twin Cities papers had printed numerous articles which "necessarily created in the public mind a prejudice against each and all of

these defendants and against each and all of these men and women who ceased to continue at work on various W.P.A. projects." For this reason, the statement continued, counsel for the defendants should be granted "the right and privilege to personally examine each and all of said prospective jurymen in detail as to their opinions" in order to determine their qualifications to give the defendants a fair and impartial trial. The request was denied.³⁸

Having been refused the right to question prospective jurors, the defense presented the judge with a list of questions that he was urged to ask the jurymen. In the end, however, the jury was selected in the usual manner, with the defense permitted ten challenges of the panel which had been selected from names submitted by county attorneys, postmasters, and the Minneapolis Junior Chamber of Commerce. The defense soon exhausted its allotment of challenges, and a body of five farmers, a filling station owner, a nonunion carpenter, a road-grader operator, an accountant, a salesman, a garage owner, and one female, a housewife, filled the jury box. Only one man on the panel from which the jury was selected had ever had union affiliations. He did not get on the jury.³⁹

Testimony heard in the third case was similar to that of the earlier trials. The prosecution emphasized alleged physical assaults, threats, and name-calling at the sewing project. Women nonstrikers testified that their dresses had been torn off when they were coming to or leaving their jobs, and they brought their torn garments into the courtroom as evidence.⁴⁰

One of the government witnesses, who called most of the defendants by their first names, had been a member of the Federal Workers Section of Local 544 at the time of the strike and had mingled with the pickets daily, observing carefully what had transpired. However, defense counsel Davis' allegations that the government was employing "spite" witnesses, and that some of them actually "provoked" attacks by strikers who were legally engaged in peaceful picketing, fell on deaf ears. Newspaper conjecture that the prosecution planned to show movies taken at the project during the rioting proved false. It was never determined whether the movies actually existed or, if they did, what they showed.⁴¹

The prosecution called more than 150 witnesses during the first three weeks of the trial, which lasted more than a month. The labor press charged that the district attorney deliberately called an excessive number of witnesses in order to prolong the trial and thus increase what would be one of the major costs for the defendants in an appeal—the transcription and printing of the testimony. Despite the unusually tedious and lengthy trial, the spirit of the defendants re-

³⁵ *Minneapolis Tribune*, October 3, 1939, p. 1, 4; MacDonald, in *The Nation*, 150:121.

³⁶ *Minneapolis Tribune*, October 19, 1939, p. 1, 2.

³⁷ Criminal Case No. 6964, 6965, and 7016; MacDonald, in *The Nation*, 150:121.

³⁸ Criminal Case No. 6964, 6965, and 7016.

³⁹ MacDonald, in *The Nation*, 150:121.

⁴⁰ *Minneapolis Star-Journal*, November 7, 1939, p. 1.

⁴¹ *Minneapolis Star-Journal*, November 14, p. 1, November 15, 1939, p. 1 (Davis quotes).

mained high. Jokes were cracked, for example, about the glass-framed American flag behind the judge's chair ("Even the flag is framed in this courtroom.")⁴²

After listening to a redbaiting final speech in which Anderson declared that "Minneapolis is not going to become the Moscow of America as long as I am district attorney," the jury returned a verdict of guilty on both charges — intimidation and conspiracy — for all twenty-five of the defendants.⁴³

PUBLIC REACTION to the entire WPA strike episode — the walkout, the indictments, the trials, and the convictions — varied greatly. The local labor movement, of course, responded sympathetically. The Minneapolis Central Labor Union defense committee undertook to support any person indicted in connection with the strike, whether he was a member of a labor union or not. Many unions assessed themselves generously for the defense fund. Nearly all of the more than \$25,000 spent by the defense was contributed by the local labor movement.

Response elsewhere was not as sympathetic. At a White House press conference on July 14, President Roosevelt issued the dictum (giving explicit permission to the press to quote him), "You cannot strike against the government," shortly after a similar opinion had been expressed by Attorney General Frank Murphy.⁴⁴

(These statements had no legal basis as there was no statute at the time that prohibited strikes by federal employees. The WPA strike predated by almost eight years the passage of the Labor-Management Relations Act of 1947 — the Taft-Hartley Act — which officially prohibited strikes by federal employees. In a chapter dealing with the "Legal Aspects of Government Strikes," David Ziskind contends that "The courts have never passed directly upon the right of government employees to strike." He points out that government strikers have been arrested and prosecuted for minor crimes but never directly for participating in a strike. He also says that, while no federal statute "denies the right of government employees to strike" [he was writing in 1940], the government may seek to use the conspiracy statutes against strikers. This seems to agree with Judge Joyce in the WPA cases.)⁴⁵

A few hours after the president had spoken, Thomas A. Murray, president of New York City's Building and Construction Trades Council, responded for labor: "You cannot force any American workingman to work at his job if, for any reason, he decides that he is unwilling to do so. If the day should ever come when a man who abstains from his job because he is dissatisfied with the terms of employment can be coerced into resuming his job against his will, then our cherished democracy will be dead."⁴⁶

Newspaper accounts of the strike were generally hostile. Even the *New York Times* found proportionately little on the strikers' side that was "fit to print."

Quoted in the labor press but ignored by other newspapers was a speech in Congress by Representative Lee E. Geyer of California denouncing the WPA mass trials as an "attempt to destroy the civil rights of labor, to persecute American citizens, and to further the political advantage of certain individuals and groups." Geyer's statement read in part: ". . . the Federal grand jury was called to investigate charges of violence in the strike. Out of that investigation came the 163 (*sic*) felony indictments, the excessive bails amounting to nearly a million dollars, and the present mass trials. . . . I am not speaking in defense of lawlessness and disorder. . . . I am maintaining that under the cloak of bringing the guilty to justice we should

⁴² MacDonald, in *The Nation*, 150:122.

⁴³ MacDonald, in *The Nation*, 150:122.

⁴⁴ *New York Times*, July 15, 1939, p. 1; *Minneapolis Journal*, July 14, 1939, p. 1. Shortly thereafter, Frank Murphy became an associate justice of the United States Supreme Court. In that capacity he questioned the invulnerability of the government regarding labor protest actions and supported the right of peaceful picketing. See Frank Murphy, "In Defense of Democracy," in *International Conciliation*, No. 360:198 (May, 1940).

⁴⁵ David Ziskind, *One Thousand Strikes of Government Employees*, 233 (first quote), 239 (second quote) (New York, 1940). The chapter referred to comprises pages 231-247.

⁴⁶ *New York Times*, July 15, 1939, p. 1.

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not permit an attack upon labor's hard-won rights to organize and a further attack upon the basic right of citizens generally, guaranteed in the first 10 amendments to the Constitution, namely, the right to free speech, the right to nonexcessive bail, and the right to a fair and impartial trial — referring to the mass character of the trials."

Geyer then asked some questions about the situation in Minneapolis: "If some strikers become hot-headed and get into fist fights, why were they not dealt with as police-court cases, which is customary? Why were they, instead, charged with conspiracy and faced with penitentiary terms? Is this awful consequence of strike participation a threat to intimidate labor? Why was there such a wholesale roundup of Minneapolis people whose crimes were no greater than mere presence where a fist fight occurred, or who were not even present but were simply officers of a group agreeing to leave their project when the picketing began, while in no other city in the country where W.P.A. employees participated in the Nation-wide strike were strikers prosecuted?"⁴⁷

As Geyer recognized, federal involvement in the Minneapolis strike was considerable. As was mentioned earlier, the *Minneapolis Tribune* of July 24 reported that some twenty-five federal agents dressed in workmen's clothing had been mingling with the pickets at the sewing project at the time the riot occurred. The agents, who had scattered with the rest of the crowd when the shooting and tear-gas bombing started, were called to testify before the grand jury. They were also active in rounding up witnesses. The close co-operation of the prosecution and the FBI was further revealed in a statement issued by District Attorney Anderson, one paragraph of which was featured on the front page of the *Minneapolis Journal* for July 19: "Persons having information that they feel should be submitted to the grand jury may do so by communicating with the federal bureau of investigation in St. Paul or the United States district attorney's office." Later, during the trials, several government witnesses admitted under cross-examination that they had reviewed their testimony with FBI agents.

⁴⁷ *Congressional Record*, 76 Congress, 2 session, Appendix, 700.

⁴⁸ The author was one of the indicted against whom charges were dismissed.

⁴⁹ "Mass Trials in Minnesota," in the *New Republic*, 102:228 (February 19, 1940); Howard, *The WPA*, 226.

⁵⁰ The sentences of those convicted in the first trial are specified in the record of Criminal Case No. 6964, 6965, and 7016.

⁵¹ Harry Hopkins, "The Future of Relief," in the *New Republic*, 90:8 (February 10, 1937).

Federal authorities again intervened when, two months after the third trial ended, the assistant United States attorney general, O. John Rogge, moved to dismiss 120 of the 125 remaining WPA strike cases.⁴⁸ Five of the defendants who had not yet stood trial changed their pleas, upon urging by the defense counsel, from "not guilty" to "nolo contendere" to one substantive charge, although Judge Joyce pointed out that such a plea was viewed in federal court as an admission of guilt. All outstanding conspiracy charges were dropped.

The motion to dismiss the indictments, according to a statement read to the court, was based on President Roosevelt's feeling that the defendants had "learned their lesson" that "they have no right to conduct a strike or engage in acts of violence." It was also stated that the Department of Justice believed that "the 32 persons most culpable" had already been convicted. This action evoked charges from some analysts that the prosecution of these workers represented a use of the court for the political purposes of stifling criticism of WPA and establishing a precedent that organized protest against the government is illegal.⁴⁹

Of all the defendants who had been tried and convicted for the events of July, 1939, four men and thirteen women were given suspended sentences and probation for up to two years, and fourteen men and one woman received prison sentences ranging from thirty days to eight months. The cases were not appealed because costs would have been too great for the local labor movement to bear.⁵⁰

WHY DID the federal government decide to prosecute only the WPA strikers in Minneapolis and St. Paul when the strike was nationwide and charges of threats and intimidation of WPA workers came from New York, Missouri, and Illinois as well as Minnesota? Further clouding the mystery was the fact that it was known that Twin Cities strikers were financially defenseless, that they were not jeopardizing essential services, that strikes by government employees were not illegal or uncommon, and that violence would certainly result from the decision to keep the local projects open.

A broad view of the climate of opinion in the late 1930s perhaps sheds some light on the building of a federal case in the Twin Cities. As Relief Administrator Harry L. Hopkins observed, the American public had become "bored with the poor, the unemployed and the insecure."⁵¹ President Roosevelt, whose commitment to the WPA program was waning, was being subjected to increasing political pressure to get out of the business of relief. The 1939 appropriation act represented a related get-tough congressional position — a position less tolerant of marginally "useful" projects,

hints of political racketeering, project inefficiency, minimal state support, and uppity project workers, really relief clients, who refused to work more hours for less money. By prosecuting in a particularly militant center of the strike, the government perhaps hoped to pressure workers into docilely accepting the new restrictive regulations, with the alternative result being an agreeable reduction in the WPA rolls.

Secondly, in the summer of 1939 the House Committee on Un-American Activities, chaired by Texas Democrat Martin Dies, had for a year made itself a forum for allegations of Communist infiltration in the United States. A second House committee of somewhat similar character, led by Woodrum, investigated the WPA prior to drafting the 1939 appropriation act. This body directed considerable energy toward uncovering subversive influences at work among WPA employees, particularly in the Federal Theatre Project which was canceled by the 1939 bill.

District Attorney Anderson's expressed fear that Minneapolis might become "the Moscow of America" was an example of how criticism of the government was equated with subversion. In a move which the *New York Times* editorially denounced as "violating fundamental American principles," the names and political affiliations of WPA troublemakers were attained covertly by the committee, and many Minneapolis and St. Paul strikers were subsequently denied further employment by the WPA.⁵²

Finally, Minneapolis strikers may have been singled out for federal prosecution because of the strength in that city of General Drivers and Helpers Union Local 544. During the late 1930s the Trotskyite leadership of Local 544 organized the Minneapolis unemployed and supplied them leadership which was anti-Roosevelt in persuasion. This should not have led a person of the president's stature to wreak vengeance on nonpolitical WPA workers who were sucked into a dispute which was the primary concern of the building

trades union, and some commentators saw the trials broadly as an action against the power and newly won rights of all organized labor.⁵³

Regardless of the reasons that may have been behind them, the trials do provide an example of the impact of executive power. President Roosevelt doubtless could have stopped the Minneapolis prosecutions with a telephone call to Attorney General Frank Murphy, but he chose not to do so. There is also little doubt that violence could have been avoided by closing the projects for a few days. Judge Joyce's emphasis on the right to strike and the right to peaceful picketing was clearly at odds with the statements made to the press by Roosevelt and Murphy on July 14 in the midst of the strike. Perhaps prosecution of strikers was regarded as a convenient way to reduce the WPA rolls as called for by the 1939 act, although removal of all the strikers from the rolls would have amounted to only a small fraction of the reductions which actually took place during the first few months after the act went into effect.⁵⁴ With the passage of time, both the strike and the aftermath seem to have been absurdly unnecessary in that the government in Washington had an easy way of preventing them.

⁵² *New York Times*, July 20, 1939, p. 4; Howard, *The WPA*, 227.

⁵³ MacDonald, in *The Nation*, 150:123.

⁵⁴ Subsequent WPA appropriations became more restrictive politically and financially. The 1941 act, for example, required employees to sign statements that they belonged to no "subversive" organizations. After the United States entered World War II, the unemployed labor force dwindled, and on June 30, 1943, the WPA ceased to exist.

THE PHOTOGRAPH on page 202, the top photograph on page 207, and the two top photographs on page 208 are through courtesy of the *Minneapolis Star and Tribune*; others are from the society's collection.



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