GOFF WILL ENJOIN THE CLOAK STRIKERS

Justice in a Sweeping Opinion Decides the Object of Their Strike Is Unlawful.

NO PRECEDENT IN THIS STATE

All Acts to Further the Demand for a Closed Shop to be Restrained by Court's Order.

Supreme Court Justice John W. Goff handed down an opinion yesterday in which he signifies that he will grant a permanent injunction against the striking cloakmakers. The injunction restrains permanently, for the first time in the history of labor disputes in this State, what is known as "peaceful" picketing. It binds the members of the various Cloak and Skirt Makers Unions not only not to picket but not to interfere in any way with the employes now at work in the cloak factories.

The ground of this sweeping injunction, restraining acts which have hitherto been considered lawful, is the illegal character of the object of the strike. Justice Goff holds that a strike to force a closed shop agreement is unlawful, and that any act done to further such a strike is an unlawful act and may be restrained by a court of equity.

In an exhaustive review of the history of the strike Justice Goff calls it a "common law, civil conspiracy." He states that if the manufacturing employers in the cloak, suit, and skirt trade had yielded to the union demand that they hire all their employes through the union they, too, would have been guilty of a conspiracy, and might have come under the displeasure of the court. On this point he says:

Court of Appeals Decision.

"The Court of Appeals has declared that it is against the public policy of the State for employers who control practically the whole trade in a community to combine for the purpose of compelling workmen to join a particular union as a condition of employment. The result is a development of the doctrine enunciated in Curran vs. Galen, (152 New York, 33,) in which the court said:

> Public policy and the interests of society favor the utmost freedom in the citizen to pursue his lawful trade or calling, and if the purpose of an organization, or combination of workingmen, be to hamper or restrict that freedom and through contracts or arrangements with the employers to coerce other workingmen to become members of the organization and come under its rules and conditions, under the penalty of the loss of their positions and of deprivation of employment, then that purpose seems clearly unlawful and militates against the spirit of our Government and the nature of our institutions.

"This language was quoted with approval by Justice Ingraham in his dissenting opinion in the McCord case, but his dissent was not on the law as expounded, but on the question of the power of the Board of Governors of defendant association to issue an order requiring its memebrs to employ workmen who refused to join."

Another Sustaining Opinion.

> Such an agreement, said the court, in Jacobs v. Cohen, (183 New York, 287,) when participated in by all or by a large proportion of employers, becomes oppressive and contrary to public policy, because it operates generally upon the craftsmen in the trade and imposes upon them, as a penalty for refusing to join the favored union, the practical impossibility of obtaining employment at their trade and thereby gaining a livelihood.

On all the evidence before him Justice Goff decided that the strike had no object other than that to afford a closed shop. He disposed of the theory that it was to better conditions or to remedy grievances. He said:

"The primary purpose of this strike is not to better the conditions of the workmen, but it is to deprive other men of the opportunity to exercise their right to work and to drive them from an industry in which, by labor, they may have acquired skill and which they have a right to pursue to gain the livelihood without being subjected to the doing of things which may be disagreeable or repugnant. That this is the motive which animates the combination of the defendants is clear from the correspondence and the acts and conduct disclosed in the papers before the court."

In addition Justice Goff denied the union contention that the strikers have confined themselves to lawful means of conducting the strike. He said:

"If the unions have not formally directed a systematic course of aggression by criminal acts the members of the unions acting in consort have connived at, condoned, and morally supported such acts on the part of many of their members, in pursuance of a common object."

Means Employed Declared Illegal.

The suit on which the injunction is granted was brought by Max Schwarz, as Treasurer of the Cloak, Suit, and Skirt Manufacturers' Association, against the International Ladies' Garment Workers' Union and others. Julius Henry Cohen argued on the motion for the employers and Meyer London for the striking employes.

"In aid of their purpose," said Justice Goff, "the defendants have employed illegal means. From the inception of the strike until the present day members of the unions who were formerly employes of members of plaintiffs' association, have interfered with the business of the manufacturers by forcible entry of the shops and destruction of the property therein, assaults and batteries of a serious nature upon employes who refused to stop work, threats to employes who were not unionists to beat or kill them, similar threats to wives and members of the families of such employes, use of opprobrious epithets and picketing the streets with unruly throngs. At large expense the manufacturers have been obliged to hire guards to conduct their employes to and from their homes or to provide sleeping accommodations for them in their shops.

"These facts are fully attested by more than fifty affidavits of employers and manufacturers who have been threatened and whose places of business have been forcibly entered and by the record of the testimony in the police courts. The affidavits show twenty-five cases of assault and battery committed by strikers upon employes by blows of the fist, feet, and blunt instruments, sending several injured persons to the hospital.

Strikers Guilty of Violence.

"There are seven records of conviction of strikers in the police courts for such assaults and batteries. The fact that these lawless acts have been committed by strikers appears by the affidavits of those who have recognized them as former employes and from the testimony of convicted persons in the police courts that they were strikers and that their acts were in aid of the strike. One employe was beaten in a hall occupied by strikers. Two employes were summoned

Continued on Page 6.

GOFF WILL ENJOIN THE CLOAK STRIKERS

Continued from Page 1.

to Beethoven Hall, said to be the strikers' headquarters. There they met a person who represented himself to be Secretary of one of the unions, and who warned them to stop work. Subsequently they were threatened by strikers with bodily injury if they should not stop work, and they have stopped because they are in fear. The fines of the strikers in the police courts have been paid by one Grossman, who said that he was employed by the union. They were defended by one Greenberg, a lawyer, who said that he also was employed by the unions.

"These various allegations in the moving affidavits are not denied by the defendants, except that the individual defendants deny that they personaly resorted to or advised violence, but, on the contrary, allege that they gathered the strikers into halls and counseled peace, and Defendants Dyche, Schlesinger, Rosenberg, and Lennon allege that the unlawful acts were done solely by strike-breakers and union sympathizers who are not members of the union. They allege that every officer of every organization involved in this strike has used his best efforts to prevent disorder.

Moving Allegations Not Denied.

"They do not deny the particular allegations of the moving affidavit that Grossman and Greenberg were employed by the unions, nor that Beethoven Hall, where the employes were directed not to return to work, is a union headquarters, nor do they allege that any striker who has been found guilty of disorder in the police courts has been disciplined or even reprimanded."

Justice Goff carefully reviewed in his opinion the *calling of the strike and the* negotiations leading up to the conference. He then said:

"At the conference the manufacturers conceded all of the demands of the unions, except that they proposed to arbitrate the questions of wages and Saturday half-holidays throughout the year, and except that they refused to concede a closed shop. Their offer of arbitration was refused. Some ten days after the negotiations were discontinued counsel for the unions made a proposition to one of the manufacturers looking toward a settlement of the whole controversy, as follows:

"'The association is to obligate each of its members to employ union men as long as the union will be able to furnish union men who can do the work properly. Within two weeks the non-union men shall 'join the union.' I am certain an agreement will be reached on all other matters.

Object of the Closed Shop.

"In insisting upon the closed shop it was doubtless the intention of the union to get the whip hand of the manufacturers by perfecting a powerful organization. That agency would thereafter insure respect of their demands for a continuance of the wages and hours, which the manufacturers are now ready to concede, but here, as in the McCord case, the ulterior purpose of the union is immaterial, as the immediate purpose is unlawful. That it is unlawful has been shown.

"The distinction between the present case and National Protective Association vs. Cumming is twofold. In the National Protective Association case there was no special proof of illegeal motive. * * * It is distinguishable again in that there was no widespread combination to drive non-union men out of their trade in a community; here the combination is directed against every non-union man in the trade in the Borough of Manhattan.

"What the employers may not do, the workmen may not do. If a combination of one to refuse employment, except on condition of joining a union, be against public policy, a combination of the other to cause refusal of employment except on condition of joining a union is alike against public policy. This refusal was sought to be caused by the demand of the defendant unions made upon all the employers in the trade that non-union men already employed should be discharged in two weeks unless they joined the union. A discharge under such circumstances would be a refusal to employ

When Picketing Is Unlawful.

"The members of plaintiff's association have large amounts of money invested in their businesses which are jeopardized by the acts of the defendants. Their season is now at its height, but they are unable to employ a sufficient number of workmen because the latter are in fear of physical injury from the strikers. The result is that the manufacturers cannot *fill large orders which have been placed* with them. They fear that orders will be cancelled and the season's profits lost. The damages which they will suffer thereby cannot be estimated and are irreparable. The defendants have no financial responsibility. * * * *

"The court cannot compel workmen to return to work; it should restrain all picketing and patrolling, whihch, though lawful when not accompanied by violence and intimidation, are unlawful where in aid of an unlawful object. It should as a matter of course restrain violence, threats to workmen and intending workmen and against their will, following them, persisting in talking to them or visiting them at their houses, and it should restrain the use of opprobrious epithets and language calculated to provoke a breach of the peace directed to members of plaintiff's association. * * * No order will issue to restrain acts which are shown by the moving papers to have been threatened, such as the issuance of circulars, or holding of public meetings, nor will the court, in the exercise of its discretion at this time, restrain the free expression of opinion. No injunction will issue against the individual defendants."

Justice Goff directed the attorneys to settle an order in conformity with his opinion.

STRIKERS WILL APPEAL.

Manufacturers Say Goff's Decision Will Apply to All Strikes for Closed Shop.

The cloak manufacturers were highly pleased with Justice Goff's decision. Julius Henry Cohen, counsel for the Manufacturers' Association, said:

"It is the strongest one which has ever been handed down in an American court against trades unionism. It declares unequivocally that the strike called by any trades union to enforce a demand for the closed shop constitutes an illegal conspiracy. The decision is far-reaching. It applies not only to the present strike, but to any other strike where an attempt is made by virtue of a strike to enforce a demand for the closed shop."

Eugene L. Sealinsky of Blauner & Co., a member of the Executive Committee of the association, said:

"The strike leaders, whom the strikers at first followed so blindly, have used methods by which they have created a Frankenstein, which is ready to devour them. The people they control have even turned against them.

"In all the mass of errors these people were blindly led into, none was more illogical than the idea that they could control our business. This would be the case if we agreed to the closed shop. The manufacturers came into the fight with clean hands, and the strikers, in the agreement which they rejected, had a splendid chance of benefiting themselves."

Alexander Bloch, Chairman of the Strike Committee of the cloakmakers, said:

"The injunction of course will be appealed to the highest courts if necessary. We contend that it is a blow at freedom and is at variance with other decisions during strikes. The union is the only protection the worker has, and five-sixths of the strikes are to preserve the union. If this decision holds, strikes for recognition of the union would be illegal, but we do not believe it will be upheld."