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FAST FACTS

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Joe Zuken and the case of the talkative watchmaker

A recent parliamentary firefight brought back personal memories of longtime Winnipeg politician and lawyer Joe Zuken and the case of the talkative watchmaker. This Wednesday, the Joe Zuken Memorial Association is presenting its annual citizen activist award, which memorializes Zuken's commitment to the struggle for social justice.

The controversy that brought Zuken to mind was ignited when Liberal Senator Romeo Dallaire argued that by allowing the United States to prosecute Omar Khadr, a Canadian who has been held at Guantanamo Bay since 2002, Canada was betraying its commitment to human rights.

Khadr was 15-years-old when captured following a firefight in Afghanistan by U.S. forces that had invaded that country. He is facing a number of serious charges, including murder. Dallaire pointed out that Khadr was a child soldier and should be treated as such, rather than being subjected to legal proceedings that violate international legal norms.

Most provocatively, Dallaire said "The minute you start playing with human rights, with conventions, with civil liberties, in order to say that you're doing it to protect yourself and you are going against those rights and conventions, you are

no better than the guy who doesn't believe in them at all."

The controversy drives home two important points. Firstly, it takes guts to defend unpopular people. Secondly, Canada does not have a deeply rooted commitment to human rights or due process. Zuken had plenty of guts and they were on most prominent display in the early 1940s when as a young lawyer, he defended a series of people who were being prosecuted under the Defence of Canada Regulations.

Adopted by the federal government in 1939, these regulations placed sweeping restrictions on civil and political liberties, providing the government with the authority to intern without trial or habeas corpus for an indefinite period anyone who it deemed to be a threat to the public safety or the safety of the state.

The government used the law to ban over 30 organizations, including the Nazi (National Unity) party, the Communist Party, the Jehovah's Witnesses, and Technocracy, Inc. Membership in an illegal organization was grounds for internment and, in enforcing the regulation, the government took the position that presence at a meeting or possession of literature was evidence of continuing membership in a banned organization.



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There is little doubt that the Mounted Police used the regulations to settle longstanding political scores with the Communist Party, which it viewed as being a greater threat to national security than the Nazi Party.

Better not to appeal

Although the decks were stacked against them, there were times when Zuken and the handful of other lawyers prepared to take on Defence of Canada cases won upset victories. In one case an overzealous magistrate had been adding hard labour to sentences he gave to those convicted under the regulations. Since the War Measures Act did not contain provisions allowing for this, the cases were overturned on appeal. These, however, were largely Pyrrhic victories. When Zuken went to the jail with the order for the release of two Communist activists, Mitch Sago and Tom McEwen, the jailer pulled him aside to let him know that the Mounted Police were already at the jail. As Sago and McEwen reached the front door of the jail, two Mounties stepped out of a side-room, grabbed them, and whisked them off for indefinite detention.

The talkative watchmaker

There were many other cases, but one of the most bizarre was that of Boris Sachatoff, a 69-year-old watchmaker. Sachatoff made the mistake of complaining to an off-duty police officer who was visiting his shop that he doubted the police would ever catch the thieves who had recently robbed his store. According to the police officer, Sachatoff then went on to say that federal justice minister Ernest Lapointe was no better than Hitler since both men were interning labour leaders without trials. In the following days, plain-clothes police officers visited the watchmaker and got him to make a variety of anti-government statements.

He was arrested, charged with making statements likely to cause disaffection to His Majesty.

As the trial proceeded, Sachatoff revealed that he was a former Doukhobor who had split with the church because of its pacifism. He said "I could not agree to that. We must fight Hitlerism. And I left because of that. He explained he was a vegetarian and follower of the moral teachings of Tolstoy. None of this did him any good. He was convicted and sentenced to four months in jail. Zuken appealed the case, and while the conviction was upheld, the appeal court decided to simply impose a suspended sentence.

Zuken himself was never arrested or interned during this time, although the police were certainly on his case. The head of the police Red Squad once confronted him in a courthouse hallway and said, "We were looking for your name, Mr. Zuken, but we could not find it." Zuken simply responded, "Maybe you did not look well enough." When one of Zuken's clients later wrote to thank him for his courage in taking on unpopular cases, Zuken, with typical modesty responded that it was he who should be thanking the clients. Since the cases "have given me a deeper understanding and hastened my development" as a lawyer.

Civil liberties and human rights are far better protected than they were seventy years ago. But their permanence cannot be taken for granted, and in emergencies they depend on the presence of people like Joe Zuken who are prepared to say hard and unpopular things.

Doug Smith is a Winnipeg writer and the author of Joe Zuken: Citizen and Socialist. The Joe Zuken Citizen Activist Award will be presented to Aboriginal activist Leslie Spillett at the Union Centre, 275 Broadway, May 21st at 7:00 pm. All are welcome to attend.



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