

Labor Activism in the Late 1910s

The *Rosenwasser Bros, Inc. v. Pepper* State Supreme Court serves as an accurate case study to show that in the late 1910s there was accelerated and aggressive momentum from unions and laborers to unionize more businesses, which included opportunistic use of the United States going to war and needing essential materials, and upon analysis of these events it becomes clear that the United States believed that the rights of laborers can be limited during wartime, even including the average worker insofar as they happen to be employed for a company that is providing for the war effort.

The United States had not always considered striking during wartime to be a legal issue. Alexander M. Bing notes in *War-time Strikes and Their Adjustment* that, actually, “strikes were not legally prohibited” and “at the most critical periods of the war strikes of great magnitude occurred in the shipyards, the copper and coal mines, the lumber camps, and in munition plants... yet no attempt was made to prevent these strikes by any means of legal prohibitions.”¹ This was the case until the passing of the Lever Act, which as Bing writes in a footnote is when “any serious attempt was made on the part of the Government to prevent the occurrence of strikes by court action.”² One notable example, Bing notes in that footnote, is the New York State Supreme Court case *Rosenwasser Bros. v. Pepper*.³

During World War I the United States army engaged in numerous contracts and purchases with privately owned businesses in order to ensure they had the materials necessary

¹ Alexander M. Bing, “Chapter XIII: General Principles,” in *War-time Strikes and Their Adjustment* (New York: E.P. Dutton & co., 1921), 154.

² Alexander M. Bing, “Chapter XIII: General Principles,” 154

³ Alexander M. Bing, “Chapter XIII: General Principles,” 154

for war. Among the things they sought ranged from seemingly simple items like lamp bulbs and shovels to more obvious wartime equipment like grenades and boxes.⁴ We see parallels of this today, such as the need for the manufacturing of masks, which is now an essential material.

Among the many companies that had contracts and deals with the government during World War I was the Rosenwasser Bros. business. Justice Townsend Scudder wrote that “eighty per cent of its business is with the United States government.”⁵ They were able to have multiple successful arrangements, including a contract regarding the manufacturing of leggings⁶ and many deals involving the government purchasing different kinds of shoes, such as marching and field shoes, which combined surpassed 300,000 pairs in quantity.⁷ So, the Rosenwasser Bros. had a significant role in manufacturing clothing for American soldiers. Regarding their daily contributions, on a normal day Justice Scudder notes that “6,000 pairs of shoes and 15,000 pairs of leggings...were being turned out daily.”⁸ However, the production would soon be stalled.

David Montgomery writes in *The Fall of the House of Labor* that “the unprecedented demand for labor and for workers’ votes had given a new lease on life to a union movement earlier stymied by the open-shop drive” and “the formal declaration of war in April 1917 merely accelerated all these developments.”⁹ The events surrounding the *Rosenwasser Bros. v. Pepper* court case are a clear example of this. As per Justice Scudder’s detailing of how things occurred, in early 1917 the United Shoe Workers of America, a labor union, was seeking activism in New York and sent representatives to join local unions in ensuring more companies become

⁴ “LIST OF PURCHASE ORDERS AND CONTRACTS PLACED BY THE ORDNANCE DEPARTMENT OF THE U.S. ARMY.” *The Official Bulletin*, May 16, 1918.

⁵ *Rosenwasser Bros. v. Pepper*, 104 Misc. 457 (1918), p. 460

⁶ “LIST OF QUARTERMASTER PURCHASES PASSED BY THE BOARD OF REVIEW.” *The Official Bulletin*, August 22, 1918.

⁷ “Awards for 8,419,000 Pairs of Army Shoes.” *Shoe and Leather Reporter*, October 18, 1917.

⁸ *Rosenwasser* 1918, 460.

⁹ David Montgomery, *The Fall of the House of Labor* (New York: Cambridge University Press., 1987).

associated with the union. They saw an opportunity to try to compel the Rosenwasser Bros. to submit to the demands of the union, knowing production must continue given that they were essential workers.¹⁰

Early 1917 activism like the aforementioned caused a streak of six months where there was a surge in protests. Montgomery notes that “between April 6 and October 5, 1917, statisticians of the NICB calculated that 6,285,519 workdays were lost because of strikes.”¹¹ The Rosenwasser Bros. factory dealt with the effects of this. Justice Scudder describes the “disturbances, violence, coercion and intimidation” that occurred in the Fall of 1917, being a result of union leaders preaching against the Rosenwasser Bros.’ treatment of the employees, who ultimately supported the unions’ cause.¹² The workers who declined to join the strikers were harassed, and two trouble-makers faced fines of \$10 (which would be around \$200 today), and one person had to pay \$25 (around \$500 today).¹³

Strikes like these around this time caused greater suspicion. As Montgomery states, “the summer strike wave of 1917, and especially the possibility that workplace struggles and the antiwar movement might blend, led federal authorities to devote special attention to workers.”¹⁴ This may have been harmful to the case of the United Shoe Workers of America, because as will be discussed, part of the issue at hand is the appropriateness of picketing in time of war. Montgomery writes that in the time prior to the war, “the decisive question for the workers’ movement remained: Was the drift of national policy toward military preparedness and probable

¹⁰ Rosenwasser 1918, 464-466.

¹¹ David Montgomery, *The Fall of the House of Labor*

¹² Rosenwasser 1918, 468.

¹³ “UNION PAID THEIR FINES.” *The Brooklyn Daily Eagle*, September 21, 1917.

¹⁴ David Montgomery, *The Fall of the House of Labor*

war an opportunity or a menace for workers' rising aspirations?"¹⁵ Unsurprisingly, this was an issue during the war, too.

Justice Scudder noted that "it is permissible for an employee to urge other employees to quit work together, or to threaten their employer with such action unless their demands are granted" and that one may "become members of" a union and "strike in order to compel the owner to conduct his factory or business as a union shop."¹⁶ So the main problem, according to Scudder, is the fact that the strikes occurred during wartime, when the factory was doing essential work. The picketing caused a major halt in the ability of the Rosenwasser Bros. to manufacture as they once did. Justice Scudder points out that the "output of the factory has been reduced to about one-fifth of its former production."¹⁷ One major walkout of around 3,000 employees caused the company to need to work overtime.¹⁸ Scudder states that the United States is in "the greatest war of all times" and that "hundreds of thousands of men" are being sent to Europe, "who must be clothed and equipped."¹⁹ He continued, suggesting that the unions and workers had no right to engage in the conduct that they did by citing the very contract that was agreed to and signed by the Rosenwasser Bros. and its employees, which most notably states that "there should be no strikes or lockouts during the war."²⁰

Another issue at hand was the motivation of the union advocates. One of the key points of the striking was to have the Rosenwasser Bros. become unionized, which makes sense considering that shoe makers were especially inclined to encourage unionization. As Montgomery puts it, "none had gone farther in this respect than the boot and shoe workers, who

¹⁵ David Montgomery, *The Fall of the House of Labor*

¹⁶ Rosenwasser 1918, 460-461.

¹⁷ Rosenwasser 1918, 460.

¹⁸ "LABOR TROUBLES SETTLED IN L.I. CITY." *The Brooklyn Daily Eagle*, August 18, 1918.

¹⁹ Rosenwasser 1918, 459.

²⁰ Rosenwasser 1918, 462.

awarded labels even to companies that did not pay union scale.”²¹ So, it was not surprising that Scudder also argued that the union was acting in bad faith and was opportunistic because of the war, claiming that “the prices and working conditions were of secondary importance” to the United Shoe Workers of America and that they were more concerned with the long term, wanting the Rosenwasser Bros. to “recognize the union by entering into a contract with it.”²² In Scudder’s eyes, this demonstrated that the ends for which the workers were protesting can wait until after the war.

Striking and picketing, and the establishment of unions, was very prominent at the time. So, the consideration of one’s rights to protest and to unionize was no trivial matter when this case was brought to the court. In a time of government concern over synchronization of, or at least agreement between, anti-war and pro-labor movements, and the stalled production of essential materials due to picketing, Justice Townsend Scudder’s judgement demonstrates that workers were essential in the eyes of the United States and therefore certain otherwise recognized rights of citizens, such as the right to picket, should be considered secondary when in a time of war. The *Rosenwasser Bros, Inc. v. Pepper* State Supreme Court case provides an excellent example of the broader momentum in favor of unions and workers’ rights which correlated, for better or worse, with World War I.

²¹ David Montgomery, *The Fall of the House of Labor*

²² Rosenwasser 1918, 470.

Bibliography

“Awards for 8,419,000 Pairs of Army Shoes.” *Shoe and Leather Reporter*, October 18, 1917.

Bing, Alexander M. “Chapter XIII: General Principles.” In *War-time Strikes and Their Adjustment*. 151-177. New York: E.P. Dutton & co., 1921.

“LABOR TROUBLES SETTLED IN L.I. CITY.” *The Brooklyn Daily Eagle*, August 18, 1918.

“LIST OF PURCHASE ORDERS AND CONTRACTS PLACED BY THE ORDNANCE DEPARTMENT OF THE U.S. ARMY.” *The Official Bulletin*, May 16, 1918.

“LIST OF QUARTERMASTER PURCHASES PASSED BY THE BOARD OF REVIEW.” *The Official Bulletin*, August 22, 1918.

Montgomery, David. *The Fall of the House of Labor*. New York: Cambridge University Press., 1987.

“POLICE GUARD SHOEMAKERS.” *The New York Times*, August 31, 1917.

Rosenwasser Bros. v. Pepper, 104 Misc. 457 (1918)

“UNION PAID THEIR FINES.” *The Brooklyn Daily Eagle*, September 21, 1917.