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## THE GLOBE AND MAIL

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# Charges stayed against relentless critic of Ontario Provincial Police in Caledonia occupation

From Thursday's Globe and Mail

*Activist who was targeted by force's commissioner off the hook after 29 months*

By Christie Blatchford

On the face of it, what the Ontario government did in Provincial Court here Wednesday was give up the ghost on getting a criminal conviction against Gary McHale.

Twenty-nine months after Mr. McHale was charged with the bizarre offence of 'counselling mischief not committed,' Crown attorney Brent Bentham stood up and read a short statement to Ontario Court Judge Bernd Zabel, explaining that the Crown was staying the charge.

Mr. McHale and his wife Christine, activists against the way Queen's Park handled and policed the now four-year-old native occupation in Caledonia, walked out of the courtroom to congratulations from a couple of friends, and even spoke about holding a victory march soon.

But if it looked like a win for the big man who has cast himself in the role of the little guy - Mr. McHale has launched dozens of court actions and private prosecutions in his efforts to hold the Ontario government and the Ontario Provincial Police accountable for their decisions and conduct during the standoff - it was not.

Now 48, Mr. McHale was in fact targeted for special police attention by the OPP, a decision that came right from Commissioner Julian Fantino, and made to pay an extraordinary price for the charge against him.

Until last month, bail conditions imposed prohibited him from even entering Caledonia or nearby Cayuga - near the village where the McHales have lived in a rented house for nearly two years and where they have both business dealings and friends. Until Wednesday, though most of the other restrictions had been eased, Mr. McHale was still banned from being anywhere near Douglas Creek Estates, the former housing development that has been in native hands since Feb. 28, 2006.

But then that - restricting Mr. McHale's freedom of movement and keeping him out of Caledonia - was always the point of the exercise, as the activist-cum-jailhouse-lawyer has since demonstrated with evidence obtained from a barrage of disclosure requests.

Though the native occupation was in the early weeks peaceful, after the OPP launched a dawn raid on the site on April 20, 2006 - a failed raid that saw the police retreat to the hoots and hollers of occupiers - violence flared often in and around the site.

In three of the most notorious incidents, protesters burned a wooden bridge to the ground, destroyed a hydro transformer and hijacked a police vehicle.

All of this preceded Mr. McHale's arrival on the scene in Caledonia in mid-July.

And the rallies he organized before he was banned - Canadian flag raisings and freedom marches for the most part - were peaceful, at least on the part of Mr. McHale and his supporters. Whatever violence there was invariably occurred when occupiers on the site reacted to the protests. Mr. McHale was even assaulted during one of these confrontations - that case is still before the courts - and briefly hospitalized.

But he was a relentless and unstoppable critic of the OPP on his well-documented website Caledoniawakeupcall.com.

In the days leading up to his arrest, as Mr. McHale's disclosure haul revealed, Commissioner Fantino was e-mailing senior OPP officers, demanding the force exploit "every possible pro-active investigative strategy that could curtail the activities of McHale et al," as he told Deputy Commissioner Chris Lewis in a Dec. 2, 2007 note. "Did we assign an arrest team dedicated to McHale if/when the opportunity presented itself to take him out?"

"I want us to take McHale to court to seek a court order to keep him out of Caledonia," Commissioner Fantino told Mr. Lewis. "Based on his history ... we should be able to take a good run at a court order. And even if we are unsuccessful we will be able to publicly expose him for the mischief-maker that he is and whose activities if not stopped will surely result in more violence."

He warned senior officers not to "get bogged down with legal nuances" in the pursuit of Mr. McHale.

In another e-mail, the OPP boss thundered, "I want every avenue explored by which we now can bring McHale into court, seeking a court order to prevent him from continuing his agenda of inciting people to violence in Caledonia."

More famously, Commissioner Fantino also appeared to be threatening Haldimand Council when, in April, 2007, he wrote Mayor Marie Trainer and warned councillors about the consequences of making "comments ... gravely detrimental to the moral and safety of my officers," by which he seemed to mean expressing any support for Mr. McHale.

Mr. McHale later launched a private prosecution against the OPP boss for attempting to influence the council, a charge the Attorney-General quickly quashed.

But the charge against Mr. McHale - a charge that at least one of the pretrial judges, Ontario Court Judge Don Cooper, and one of the prosecutors, Mitch Hoffman, admitted they'd never even heard of - endured for almost 2 1/2 years.

"The state used all of its power to silence a citizen," Mr. McHale said Wednesday, and he's absolutely correct.

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