



When Freedom demands action

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### **Cayuga Crown Withdraws Criminal Charge against Gary McHale**

In Cayuga on Tuesday June 7, 2011, the Crown informed Justice Kerry Boon that there was no prospect of a conviction against Gary McHale on a charge of assaulting Tom Keefer of CUPE 3903 and therefore they withdrew the charge.

On Feb. 28, 2011 Mr. Keefer bused in people from York & Guelph Universities for the purpose of confronting residents of Caledonia and Gary McHale and to directly interfere with their right to have a public gathering with speeches. When the gathering was switched from the Caledonia Lion's Hall to private property near Douglas Creek Estates (DCE), Mr. Keefer trespassed onto the private property with his group and swarmed Mr. McHale. Mr. Keefer refused to leave the property after being directly ordered by Mr. McHale who then gently pushed Mr. Keefer's shoulder in order to direct him off the property.

Mr. Keefer then encouraged a large crowd to join him in order to take over the property and effectively end any possible gathering CANACE had planned. Mr. McHale immediately left to seek OPP help to remove the trespassers who were now committing the criminal act of mischief by directly interfering with the use of private property.

Not surprisingly the OPP refused to aid Mr. McHale, as the victim of the crime, and stood back and allowed the criminal behaviour to continue. Instead, three weeks later the OPP, in direct violation of the Criminal Code, arrested Mr. McHale for assault even though the law is clear that Mr. Keefer, as the trespasser, was to be the one arrested. The law states, "a trespasser who resists an attempt by a person who is preventing his entry or to remove him, **shall** be deemed to commit an assault..."

Mr. McHale will be filing criminal charges against Mr. Keefer on a charge of assault, mischief and counseling mischief. Also those who joined Mr. Keefer to interfere with the use of private property will be charged with mischief.

What the Crown didn't tell the court on June 7, 2011 is that this is the third time since Dec. 2006 that the OPP has arrested Mr. McHale with the pre-approval of the Crown's office. This is the third time the Crown has failed to bring a case to trial.

The first arrest was on Dec. 16, 2006 when Mr. McHale was standing on the side of the road with a Canadian Flag. According to the OPP Police Service Report from that day, the OPP goal was to force travel restrictions upon McHale. While the Cayuga Crown agreed with the OPP arresting McHale, the Crown in Hamilton rejected the OPP's authority to bring McHale to court and therefore refused to go along with the illegal actions of the OPP.

The second arrest was related to a rally on Dec. 1, 2007 against illegal smoke shops in Caledonia. Ex-commissioner Fantino ordered his officers to find a way to bring Mr. McHale to

court in order to get travel restrictions upon McHale. The Cayuga Crown prosecuted McHale for 30 months and then stayed the charge before the trial.

There is a pattern here of the OPP and Cayuga Crown willfully using the criminal justice system for purposes other than to get a conviction. Each time the aim is to establish travel restrictions and not the goal of a trial and conviction.

Mr. McHale can be contacted at [info@GaryMcHale.ca](mailto:info@GaryMcHale.ca) or 289-286-0423.

Canadian Advocates for Charter Equality  
Further info: [info@CANACE.ca](mailto:info@CANACE.ca)