

ELLIOTT, CO. J.

DECEMBER 15TH, 1903.

TRIAL.

REX v. BURNS.

Criminal Law—Watching and Besetting—Criminal Code, sec. 523 (f)—Obtaining or Communicating Information.

The defendants were charged under sec. 523 (f) of the Criminal Code with watching and besetting the railway station with a view to compel L. & Sons to pay higher wages.

J. Magee, K.C., for the Crown.

J. C. Judd, J. M. McEvoy, and J. G. O'Donoghue, for the several defendants.

Upon the conclusion of the Crown's case, O'Donoghue asked to have the case withdrawn from the jury, upon the ground that the evidence shewed, at most, a watching and besetting to obtain or communicate information, and contended that the absence from the Code of the proviso that, under the English Act, permits watching and besetting merely to obtain or communicate information, made no difference in the law, as the proviso in the English Act was inserted *ex abundanti cautela*.

ELLIOTT, CO. J., allowed the case to go to the jury upon other grounds, but ruled that the absence of the proviso from the Code did not make the Canadian law different from that of England.

CARTWRIGHT, MASTER.

DECEMBER 15TH, 1903.

CHAMBERS.

CLEMENS v. TOWN OF BERLIN.

Jury Notice—Striking out—Action against Municipal Corporation—"Non-repair of Street"—Obstruction.

Motion by defendants to strike out a jury notice filed by plaintiff. The statement of claim alleged that plaintiff, while driving in the town of Berlin, was injured by the upsetting of his vehicle "owing to a steam road roller unlawfully left standing on the public highway by the defendants."

C. A. Moss, for defendants, contended that the action was for injury "sustained through non-repair" of the street in question, within the meaning of sec. 104 of the Judicature Act.

J. E. Jones, for plaintiff, contra.