

chapter 31, passed in 1872, which was a law with reference to threats, violence and molestations. It provided as to certain defined acts, which were the acts it was thought expedient to make punishable specifically—certain defined acts arising in the connection of workmen with one another, and maybe, of employers with one another—and it made these acts punishable by imprisonment, with or without hard labor, for not more than three months. There were provisions in that statute for the prosecution, under the procedure for summary prosecutions, by justices of the peace out of sessions; and a power to appeal was given. There was, also, a very proper provision that the master, or the relative, or connection of the master, should not sit as a justice of the peace in such prosecutions. That Act was not found satisfactory, and in 1875, by 38 Victoria, chapter 39, that law was repealed and other specific provision was made, which, however, in itself was unsatisfactory. In the following year, 39 Victoria, chapter 37 (1876) was passed, for which, being at that time Minister of Justice, I happen to be responsible. Now, by the first section of that Act, the Act of the previous year was repealed, and by its second section the repeal of the first section of the original Act, 35 Victoria, was continued, and for it was substituted a more satisfactory section, as I conceived, and as Parliament approved. That new section dealt with the matter as affecting the relations of men generally, and not of particular classes of men, and it applied to these relations certain conditions which were constituted into crimes. Certain particular kinds of offences, now often called boycotting, and particular cases of a marked and defined offensive character, relating to intimidation by threat or otherwise, were specified. They were made offences, and it was provided that they should be punishable by the alternative of fine or imprisonment, summarily; but that, instead of there being an appeal, if the accused party objected to being tried before the summary tribunal, the case should forthwith be treated as an indictable offence and prosecuted as such accordingly. Then the fourth section established for the first time the law as it stood until the Revised Statutes, with reference to this particular subject of conspiracy, and its provision is that to which I particularly wish to draw the attention of the Committee and the Minister of Justice. The fourth section provided:

"That no prosecution shall be maintainable against a person for conspiracy to do any act, or to cause any act to be done, for the purpose of a trade combination, unless such act is an offence indictable by statute, or is punishable under the provisions of the Act hereby amended: nor shall any person who is convicted under any such prosecution, be liable to any greater punishment than is provided by such statute, or by the said Act as hereby amended, for the act of which he may have been convicted as aforesaid."

The statute then defines what a trade combination is. Now mark that the law of conspiracy was thus swept out of all operation in connection with acts done for the purpose of a trade combination, except in two classes of cases: unless the act done was an offence indictable by statute, or unless it was an offence punishable under this particular Act, in which case, though not necessarily, an indictable offence, it was an offence of that particular character and defined in that particular way by the very Act itself, as I have described a moment ago. Therefore, the law of conspiracy was abro-

gated, as to trade combinations, except in this particular class of offences defined, and in all cases of such graver offences, as are offences indictable by statute. Any conspiracy, then, for purposes of a trade combination, to do an act punishable only at common law, or punishable by statute under summary procedure, was no longer criminal and remained no longer capable of being prosecuted under the law of conspiracy. If it were one of these minor offences, not raised to the gravity of an offence indictable by statute, if it were a minor offence punishable summarily, it was swept out of the law of conspiracy altogether, if done in concert for the purpose of a trade combination. Such was the law, and so it stood and gave satisfaction until the Revised Statute passed; but in the Revised Statute, I find, an alteration was made, and it reads thus:

"No prosecution shall be maintainable against any person for conspiracy to do any act, or to cause any act to be done, for the purposes of a trade combination, unless such act is an offence punishable by statute."

So that you no longer have the protection, as to the gravity of the excepted offence, which existed up to that moment. All offences which are punishable by statute, even though of the most trivial character, and punishable in the lightest way and by the most summary procedure, are once more, by the Revised Statute, drawn within the wide net of conspiracy, even though they are things done for the purposes of a trade combination. This is a distinct enlargement of the exception, certainly not contemplated by me when I proposed the legislation, or by the Houses of Parliament which passed it at that day; and you will readily perceive that, having had a special interest in this legislation, I was surprised when I found that that diminished protection which was still awarded by the Revised Statute it was proposed further to impair by substituting offences punishable by law "for offences punishable by statute." I am glad we are going back thus far, but I hope we shall go back still further; I hope that all the protection which was given, and advisedly given, against the effects of this obnoxious law of conspiracy by the Act of 1876, will be restored by Parliament, and that the attempt—I do not know with what design—for all I know, it may not be a designed attempt—to diminish that protection and to enlarge the exception, will not, now that the attention of Parliament is called to it, be persisted in, but that we shall find Parliament disposed to restore in its full vigor and efficiency the Act of 1876. Now, Sir, this law of conspiracy is a very wide law. I declare that the alteration which has taken place renders it impossible to say how small a matter may not now be punishable as a criminal conspiracy, and introduces lamentable uncertainty into the operations of trade combinations. I have extracted a statement made by a very eminent legal authority, an ex-Lord Chancellor of England, in one of the very latest debates in the House of Lords, upon the subject of the law of conspiracy, and I will trouble the House by a perusal of it, inasmuch as it shows how wide is that net which the law of conspiracy spreads in order to catch the subject. Lord Herschell said this:

"I think exaggerated importance has been attached to the expression 'criminal conspiracy.' Many most excellent people have been guilty of criminal conspiracy without being deserving censure. The law of conspiracy is a

wide
ment
lual
agree
into
the
act.
fortab
States
has be
Prohib
have a
the pr
the ho
ment,
ers,
head
spirits,
guilty
and ex
length
carried
do an
not a
apath
criminal
moral
it has
illegal
conspir
clearly
spira
treat pe
Althoug
conspir
morally
Now, S
law sto
abstrac
law of
trade c
of these
dictable
offence,
offences
were p
combin
the pur
being p
the law
efficien
phrase
"indie
mitted
spira
pursua
acts be
the ran
Act its
Minist
which
that a
accomp
Sir J
a class
stations
combin
tion
formed
such t
respect
combin
few m
work v
respect
comple
shall n
any e
clause