

court below, and a new trial ordered. Appeal dismissed with costs.

*W. B. A. Ritchie*, K.C., for appellants. *Mellish*, K.C., and *D. A. Cameron*, K.C., for respondent.

Ref. P.C.]

IN RE CRIMINAL CODE.

[June 15.

*Reference by the Governor-General in Council—Criminal Code—Procedure—Alberta and Saskatchewan—Indictable offence Preliminary inquiry—Preferring charge—Consent of Attorney-General—Powers of deputy—Lord's Day Act, s. 17.*

Sec. 783a of the Criminal Code (6 & 7 Edw. VII. c. 8) provides that in the provinces of Alberta and Saskatchewan it shall not be necessary to prefer any bill of indictment before a grand jury, but it shall be sufficient that the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence with which he is charged. 2. Such charge may be preferred by the Attorney-General or an agent of the Attorney-General or by any person with the written consent of the judge of the court or of the Attorney-General or by order of the court.

*Held*, 1. IDINGTON, J., dissenting, that a preliminary inquiry before a magistrate is not necessary before a charge can be preferred under this section.

2. The deputy of the Attorney-General for either of said provinces has no authority to prefer a charge thereunder without the written consent of the judge or of the Attorney-General or an order of the Court.

Sec. 17 of the Lord's Day Act provides that "no action or prosecution for a violation of this Act shall be commenced without the leave of the Attorney-General for the province in which the offence is alleged to have been committed . . ."

*Held*, that the deputy of the Attorney-General of a province has no authority to grant such leave.

*Newcombe*, K.C., for Dominion of Canada. *Ford*, K.C., Deputy Atty.-Gen. for Saskatchewan. *C. A. Grant*, for Alberta.