

or that there was any request for the same. *Rex v. McGuire*, 16 O. L. R. 522.

The evidence shewed that the first sign of dispute was the strike itself, or rather the inciting by the defendant of the strikers. The strike followed this inciting. As the prosecutor stated the strike came to him with so much surprise that it was like a thunderclap. It appears that there was no demand for increased wages, shorter hours of labour or anything of any kind until the defendant called upon the men to strike. This call was the very beginning of the dispute. There cannot be a dispute or difference unless there are two parties who dispute or differ with one another. It may be and without doubt must have been the case here that the strike was preconcerted among the men, though there is no evidence that this was so. But stating it as strongly for the prosecution as possible and allowing that the strike was the result of a previous understanding between the men, still matters did not reach a stage where there was a demand by the men for better terms and a refusal by the employer, the Hollinger Mines Co., of what the men asked. When such a demand and a refusal were not made can it be said that there was any "dispute" until the strike itself created the dispute? If the answer be that there was no dispute until the strike itself then will come the necessity of answering another question. Did the men go on strike "on account of any dispute," to quote the words of sec. 56?

In my opinion the defendant is not brought within the Act as an offender under secs. 56 and 61, for the reason that the strike was not on account of a dispute. To hold otherwise would be to eliminate the words "on account of any dispute," from sec. 56. If these five words were not in the section, then it would be clear that the defendant by his inciting was guilty of an offence.

The Act when framed might have been so framed with or without these words. One cannot assume that they were placed in the section without it being intended that they were to have a meaning and perhaps were intended for a purpose. Possibly it was considered that when a strike comes like a bolt out of the blue instead of like a storm of which there is premonition, there is not the danger to the peace of the community that would be engendered by the antecedent mutterings.