

Government would not insist upon further prosecution, waived all formalities.

To our amazement, the signed letter of the Minister of Justice was treated as "a scrap of paper" and a second prosecution was launched within a few weeks for the same alleged offence.

When the case was called, Mr. Spence's solicitor interposed an objection and applied to the Supreme Court for an order of prohibition, which was refused. It was at this time that Justice Sutherland gave the decision before quoted.

THIRD.—When the first charge came before the Police Magistrate for hearing, counsel for Mr. Spence claimed the right of trial by jury. This right was at first controverted by the Crown Attorney, but upon inquiry by the Magistrate whether, if he had jurisdiction to make a committal for trial by jury, the Crown would consent, the Crown Attorney answered that he would, and the committal ensued.

The following is a newspaper report of the proceedings at that time.

"If he wants to be tried by a jury, and it is in my jurisdiction to send him, then you will agree?" asked Magistrate Denison.

"Certainly," assured Mr. Corley.

At that time Canada was at war, our country was in the thick of the fight.

When the case again came before the Toronto Police Court in January, 1919, upon the second information, the Crown reversed its position and insisted upon trial by magistrate.

Canada is now at peace and men are returning home. The Government of Canada has announced the relaxation of many restrictions that obtained during hostilities and modification has been made of some Orders-in-Council restoring the right of trial by jury.

Under date of January 24th, 1919, in a letter to the Attorney-General, Mr. Spence said:—

"The utmost contention of the Crown, as I understand it, is that the Crown has the right to decide whether the trial shall be by Jury or by summary conviction.