

## GREENBERG &amp; WRIGHT

Barristers and Solicitors

78 Bank Street  
Ottawa

APRIL 10th, 1953.

By Hand

Mr. A. J. MacLeod,  
Department of Justice,  
Ottawa, Ontario.Re: Amendments to the Criminal Code  
Your File No. 165000-3

Dear Mr. MacLeod:

This will acknowledge receipt of the material which you sent to me to-day. I have had an opportunity of discussing the proposed amendments with Mr. Donald MacDonald and Dr. Eugene A. Forsey. The following comments are made with their concurrence.

The Canadian Congress of Labour is prepared to accept your latest amendment to Section 365, provided only that the following words are deleted, namely:

if, before the stoppage of work occurs, all steps, provided or contemplated by law have been taken through negotiation, collective bargaining, conciliation and arbitration.

If the Government is not disposed to enact the amendment with the above deletion, then the Canadian Congress of Labour suggests that Section 499 of the present Criminal Code should be retained in place of Section 365. The terms of reference of the Commission dealing with criminal law require it to consolidate and revise the existing law, and I would respectfully submit that it would be more in keeping with the terms of reference to retain the existing law rather than revert to the law as it existed in 1892. In the event, however, that the Government is not disposed to retain Section 499, then the Canadian Congress of Labour has instructed me to advise that it has no objection to the enactment of your redraft of Section 521 of the Criminal Code of 1892 as it existed prior to the revision of 1906.

The Canadian Congress of Labour wishes to make it perfectly clear, however, that it is unequivocally opposed to the proposed amendment to Section 365 if the last four lines thereof are retained. This would have the effect of imposing punishment in the field of industrial relations in addition to the penalties provided for in existing labour legislation. I should also point out that the existing labour legislation provides that negotiations, collective bargaining, conciliation, etc., must be followed prior to taking a strike vote or calling a strike. If the conciliation process is followed, then clearly there is no breach of contract. In effect, therefore, your proposed amendment says that no person would wilfully break a contract if he has not broken a contract.

With respect to Section 372, the Canadian Congress of Labour is satisfied with your latest amendment, subject only to one observation. Sub-clause (b) provides that a person does not commit mischief if "being a member of an organization of employees... he stops work..." At any given time there are a number of employees who, as a result of their being in arrears in payment of dues, are not members in good standing in their organizations. In addition, a large number of employees in Canada have deductions made from their salaries pursuant to the provision of the Rand Formula, which provides that