

CONTEMPT OF COURT.

By JAMES CRANKSHAW, K.C., of the Montreal Bar.
(ANNOTATION FROM 51 D.L.R.)

At the Fall Assize, which commenced at Winnipeg on November 4, 1919, the Grand Jury found a true bill against William Ivens, Robert B. Russell and 6 other men, for seditious conspiracy. The accused persons, on being arraigned on November 26 last, pleaded "not guilty," and the Crown, having elected to first proceed with the trial of the accused Russell, alone, his trial commenced on that day before Metcalfe, J., and a jury. the trial of the other 7 persons accused to come up after the conclusion of the Russell trial. On December 24 last, Russell was found guilty on all counts of the indictment; and, on December 27 last, he was, by Metcalfe, J., sentenced to 2 years in the penitentiary on each of the first 6 counts, and 1 year on the seventh count, the sentences to run concurrently. On that day, the Assize was adjourned until January 7, last, and later was further adjourned until January 20 last, when the trial of the remaining accused persons was proceeded with before the same Judge and a jury, and was, on February 10 last, still pending.

On the evening of December 29 last, at a meeting of what is called the Labour Church in the Columbia Theatre, Winnipeg, William Ivens made to an audience of about 1,000 people a speech, in which (among other things), he stated that he was not guilty of seditious conspiracy, but that, in view of the verdict in the Russell trial, there seemed to be little hope that he himself should escape a prison sentence, adding that "Bob Russell was tried by a *poisoned* jury, by a *poisoned* Judge, and is in gaol because of a *poisoned* sentence," and, further, that "to arrest men who are doing their best lawfully and peacefully to carry on a strike and charge them with seditious conspiracy is a farce and a travesty."

On February 10 last, the Court, on motion of the Deputy-Attorney-General, granted a rule *nisi* calling upon Ivens to answer for a contempt of Court committed by him in the above mentioned speech. Ivens admitted the use by him of the language complained of, but with no wish or intent of being in contempt of Court, adding that if the Court should be of the opinion that, in speaking in the manner complained of, he had placed himself in contempt of Court he regretted having done so and respectfully requested the Court to accept his full apology therefor; and the Court, on motion to make absolute the rule *nisi*, entertains no doubt that Ivens' speech constituted that species of comment upon a pending criminal trial which the law forbids, because he imputed unjustness and unfairness to the Judge and jury by whom Russell was tried, and he went on to tell his audience that those who were still to be tried were not guilty but their trial was a farce and a travesty. In view, however, of Ivens' offer of apology the Court found it sufficient to order him to enter into a recognizance in the sum of \$1,000, and one or more sureties to a like amount, to be of good behaviour and not to be guilty of contempt of Court for the space of three months from the present time.

CONTEMPT OF COURT.—The essence of Contempt of Court is action or inaction amounting to interference with or obstruction to, or having a tendency to interfere with or to obstruct the due administration of justice. (See *Re Dunn*, [1906] Vict., L.R. 493, cited at p. 1157 of Archbold's *Crim. Pleadings, Practice & Evidence*, 25th ed.)