

to set up an offence coming within the proviso in section 590 of the Criminal Code. That section has already been referred to. It provides, "That no prosecution shall be maintainable against any person for conspiracy in refusing to work with or for an employer or workman, or for doing any act, or causing any act to be done for the purpose of a trade combination, unless such act is an offence punishable by statute." As a violation of the Industrial Disputes Investigation Act is an offence punishable by statute, the proviso in section 590 is covered. The device was not necessary for the purposes of the Crown, as the crime of seditious conspiracy is not protected by section 590. Unless the Crown was prepared to prosecute the accused for a violation of the Industrial Disputes Investigation Act, I do not think its contravention should have been used for the purpose of establishing the offence of seditious conspiracy. On the other hand, if the strike was lawful under S. 590, I do not think the accused should be deprived of the benefit of the section by setting up against them an infraction of an Act punishable with a fine.

Before closing this opinion attention should be called to the law of picketing contained in section 501 of the Code. The section is taken from section 7 of the English Conspiracy and Protection of Property Act, 1875, with the omission of an important provision. I have already quoted the English section. Section 7, including this important clause was adopted without change by the Canadian Parliament in 1876. See 39 Vict. C. 37, ss. 2 & 3, and Chap 173, R.S.C. (1886). On the codification by Parliament in 1892 of the Criminal law the section was put in its present form by the omission of the following clause: "Attending at or near the house or place where a person resides or works or carries on business or happens to be on the approach to such house or place in order merely to obtain or communicate information shall not be deemed a watching or besetting within the meaning of this section."

In Great Britain, on the other hand, the law of picketing has been made more favorable to workmen than it was under this clause by the substitution for it of the following section in the Trade Disputes Act, 1906:—"It shall be lawful for one or more persons, acting on their own behalf or on behalf of a trade union or of an individual employer or firm in contemplation or furtherance of a trade dispute, to