

MEREDITH, C.J.C.P., in a written judgment, said that it was quite clear from the evidence that, but for the strike of the plaintiffs' workmen, their contract would have been performed within a time quite satisfactory to all persons concerned. It could not be found that the plaintiffs had exhausted their reasonable time for the performance of their contract at the time when the strike took place; and the time during which that strike lasted was not to be counted against the plaintiffs: *Hick v. Raymond & Reid*, [1893] A.C. 22; *Sims & Co. v. Midland R. W. Co.*, [1913] 1 K.B. 103. No fault could be found with the judgment of the trial Judge on this branch of the case.

On the other branch, the finding was, that the defendants had not within a reasonable time performed their contract with the third parties, and so could not enforce it. No time was fixed for the performance of this contract. From the 7th July till the 19th September the defendants did nothing effectual towards performance; and it could not be said, under all the circumstances of the case, that the trial Judge erred in his finding that they had failed to supply the material within a reasonable time, and so were guilty of a breach of their contract, and could not enforce it or recover damages for a breach of it.

Both appeals should be dismissed.

LENNOX, J., agreed with the Chief Justice.

Appeals dismissed with costs.

HIGH COURT DIVISION.

MIDDLETON, J., IN CHAMBERS.

SEPTEMBER 24TH, 1917.

REX v. HARDING.

Criminal Law—Summary Trial by Magistrate under sec. 177 of Criminal Code—Conviction—Motion to Quash not Entertained—Remedy by Appeal upon Stated Case under sec. 1013 et seq.

Motion to quash a magistrate's conviction of the defendant for unlawfully disposing of certain coupon tickets.

C. W. Bell, for the defendant.

J. R. Cartwright, K.C., for the Crown.