Vincent v. Sprague, 3 U. C. R. 283, unless read, as I think it should be, in conjunction with the subsequent cases on the subject, is somewhat misleading. Reading it alone, one might almost infer that proof of the crime was actually a defence to the civil action for damages. But Sir John Robinson, C.J., who delivered the leading judgment in that case, also delivered the judgment in the subsequent case of Brown v. Dalby, 7 U. C. R. 160, in which it is apparent that he did not proceed in that case out of consideration for defendant, but rather in conformity to the rule of public policy that where the facts disclosed a crime there could be no recovery of damages in a civil action until the criminal had been prosecuted—a consideration which leads me to think that the earlier case also proceeded upon a similar principle, although not so expressed in the judgment.

This rule is again referred to in Walsh v. Nattrass, 19 C. P. 453, and in Williams v. Robinson, 20 C. P. 255.

The so-called rule has been variously stated, and even sometimes doubted: see Pollock on Torts, 7th ed. (1900), p. 198. But, at the utmost, its effect was simply, in the interest of public justice and the administration of the criminal law, to cast the duty upon the courts to stay proceedings until the demands of the latter had been satisfied: see Taylor v. McCullough, 8 O. R. 309. And it is very doubtful if the rule ever extended to the case of a person not a party to the criminal act, but who was merely suing to recover damages by reason of a collateral consequence of that act: see per Hagarty, C.J., in Walsh v. Nattrass, supra; Appleby v. Franklin, 17 Q. B. D. 93; Wells v. Abraham, L. R. 7 Q. B. 554; Ex p. Bell, 10 Ch. D. 667.

But by sec. 534 of the criminal Code, 1892, which came into force on 1st July, 1893, it is declared that after the commencement of that Act no civil remedy for any act or omission shall be suspended or affected by reason that such act or omission amounts to a criminal offence. And the rule thus ceasing, the cases which rested upon it of course cease to be binding authorities.

Appeal dismissed with costs.

MOSS, C.J.O., and OSLER, J.A., each gave reasons in writing for the same conclusion.

MACLAREN, J.A., and CLUTE, J., also concurred.