

defendants should not be allowed to evade the operation of our law upon the grounds set forth by their Counsel, that, in fact, the cause of action to all reasonable intent, and for the purposes of this case, arose in Canada. No doubt there is much force in all this, but as I view the facts before me, these arguments and these generalities are not decisive. What is proved, or may be presumed to have taken place in Canada, with regard to this matter, constitutes no new element in the cause of action. The defendants were liable upon civil process in New-York, if liable at all, to the same extent, and in perhaps the same way, they are liable here. Their coming to Canada makes no change in their original liability, or in the cause of action. I am not aware of any precedents, nor have we much law, except some elementary *dicta*, to guide us in this matter. But having bestowed upon the case very careful attention, I am forced to the conclusion that the whole cause of action in the present instance, before stated, arose in N. Y., that it existed there wholly and entirely before the defendants reached Canada—and that no addition to that cause, nor any modification of it has taken place since their arrival here. Taking this view of the matter reluctantly, but without much hesitation, I feel bound to grant the prayer of the petition, and to liberate the defendants. No doubt it is a hard case. Our statute may be defective, but I think not. In any case, I must take it as I find it. I am only the organ of the law, and as such I am bound to interpret it according to my understanding of it, and to apply its provisions with a strict and scrupulous adherence to its letter, where its language is peremptory and unambiguous. In a case like the present, had it been possible for me to entertain a serious doubt,—could I have found in the words of the statute any uncertainty, or that kind of elasticity, if I may so express it, which would have enabled me, in the conscientious discharge of my duty, to refuse the defendants' application, I should have done so. But as it is, the law, and the facts of the case, however atrocious the latter may be, compel me to decide in their favor.

In conclusion, I would remark that our Legislature having employed a language so

intelligible and so decisive, I must assume that the law means precisely what is there so clearly enacted,—no more and no less. And I am of opinion that the letter and the spirit of the law are here in perfect harmony, and that this exemption from arrest on civil process to be found in the statute has not been made without good reason. Were it lawful to arrest foreigners here by *capias*, and to detain them in confinement upon civil liability, arising out of crimes or *délits* alleged to have been perpetrated in foreign States, such a mode of proceeding might lead to incalculable abuse and hardship in individual cases, and might, moreover, be fraught with perilous consequences. I am aware that this is not a case of international law. Neither treaties, nor the mutual comity between nations, come under my consideration. I have nothing to do with either, nor have I to analyze or discuss *ab conveniente, or ab inconveniente* arguments in this matter; my duty is simply to decide a question of municipal law. But in doing so I may state that it is easy to conceive instances where parties might be subjected to long detention upon civil process in Canada, and be afterwards acquitted of the criminal charge in the country where the crime was alleged to have been committed. Besides, it would not be difficult to suppose a variety of cases in which false or doubtful accusations might result in flagrant injustice and mischief, unless special provisions existed to avert such consequences.

In my opinion our Legislature has wisely guarded against the possibility of such occurrences, and although, in this case, it is much to be regretted that my decision should come to the relief of vagabonds and professional thieves, under the circumstances proved, yet, on the other hand, I must look to the statute and to the facts established, and not to the character of the defendants.

It would be in the highest degree dangerous for any Court or Judge, without the express, the clearest sanction of the law, to establish a precedent such as that contended for by the plaintiffs. The petitions are, therefore, granted.

*S. Bethune, Q.C.* and *E. Carter, Q.C.*, for the plaintiffs.