

The present English law is cited for the plaintiff; but it has really no direct application to the state of affairs in Canada. By the Forfeiture Act of 1870, 33 & 34 Vict., ch. 23 (Imp. Stat.), it was provided that no conviction or judgment of or for any treason or felony, should cause any attainder or corruption of blood or any forfeiture or escheat (sec. 1), and then it provided for the appointment by the Crown of an administrator of a convict's property, and it also declared that every convict should be incapable (during his servitude) of alienating or changing his property or of making any contract (sec. 8). But even as to this Act the effect is said to be that it leaves a convict for felony in possession of his property, just as the common law left a convict for misdemeanour in possession of his property: Lush, L.J., in *Ex p. Graves*, 19 Ch. D., at p. 5. Our legislators have had an eye on the English statute, for they have adopted the remedial provisions of sec. 1, into our Criminal Code, where it appears as sec. 1033 (R. S. C. ch. 146), where almost the identical language is used, viz., that no conviction or judgment for any treason or indictable offence shall cause any attainder or corruption of blood or any forfeiture or escheat. The variation from the word "felony" in the English Act to the phrase "indictable offence" in the Code, is because of sec. 14 of the Canadian Code, whereby the distinction between felony and misdemeanour is abolished, and all are treated as indictable offences. The grade of crime is with us determined by the gravity of the offence and the degree of punishment attached.

The effect of this section of the Code is equivalent to that of the English Act, leaving undisturbed in the possession of the convict all his property. The law in Canada has not gone further as has been done in England, so as to interpose certain obstacles on the action of the convict with respect to his property, and to vest the administration thereof in a statutory official. A convicted offender serving his term, may deal with his goods and lands as other men who are free from custody may deal with theirs, and no disability or restraint is put upon the convict so far as dealing with his property is concerned, beyond that which attaches to other owners.

I find that the point has been expressly decided by Mr. Justice Jette in *Dumphy v. Kehoe*, 21 Rev. Leg., p. 119 (1891), that the Imperial Statute relied upon by the plaintiff of 33 & 34 Vict., ch. 23, is not in force in Canada, pp.