

by whom the prisoner was convicted under Crim. Code s. 217, for having a girl on his premises for immoral purposes.

*Held*, the case was one not of permitting, but of committing the defilement of a girl on the premises. Sec. 217 relates only to parties who induce or knowingly suffer girls under 18 to resort to, or be upon, their premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man or generally. This is inapplicable to the facts of this case; a civil action might lie, but there is criminal liability under the code. Prisoner discharged.

*G. F. Henderson*, for the prisoner. *Cartwright*, K.C., and *Bayley*, K.C., for the Crown.

Full Court.]

Dec. 30, 1910.

REX v. FREJD.

*Criminal law—Conviction by justices not having jurisdiction—Imprisonment under—Habeas corpus—Order quashing warrant of commitment and directing bringing of prisoner before justices for preliminary hearing—Crim. Code, sec. 1120.*

Appeal by the defendant from an order of CLUTE, J.

The defendant was apprehended on a charge of issuing a false cheque and brought before two justices of the peace at Cochrane. He pleaded guilty and they imposed a sentence of imprisonment in the Central Prison at Toronto. The offence was an indictable one, and not one of those which two justices are, under Part XVI. of the Criminal Code, authorized to try. They should have held only a preliminary inquiry, and sent the accused to the gaol of the district to await trial until bailed. Being taken to the Central Prison, he applied for and obtained a writ of habeas corpus and certiorari in aid, and, on the papers being returned thereunder, moved for his discharge. CLUTE, J., made an order quashing the warrant of commitment to the Central Prison, but, instead of discharging the defendant from custody, ordered that he be removed back to Cochrane and brought before the two justices for a preliminary hearing upon the charge. CLUTE, J., considered that the case came within sec. 1120 of the Criminal Code, 1906 (formerly sec. 752 of the Criminal Code, 1892), now amended by 7 and 8 Edw. VII. ch. 18, sec. 14, and, as amended, providing that, whenever any prisoner in custody