

sentence, commence on and from the day of the passing of such sentence; but no time during which the convict is out on bail shall be reckoned as part of the term of imprisonment to which he is sentenced." Of course the Criminal Code could not include liberation from imprisonment on license as an exception to the continuity of the effluxion of the term of imprisonment, because the Ticket of Leave Act was not then passed. But, on the other hand, the rule of Common Law is that a sentence must be fully served by the convict before his offence is purged, and the statute in question (62 & 63 Vict., c. 49) makes no exception, either expressly or impliedly to this rule. A ticket of leave is in no sense a pardon or commutation of a judicial sentence. And, again, a man cannot be said to be serving a term of imprisonment when he is not in custody: *Smith v. Commonwealth*, 59 Pa. St. 324.

It may be mentioned, by the way, that little benefit in the way of interpretation is to be derived from the English cases in this matter, because the provisions of the Imperial Act 27 & 28 Vict., c. 47, s. 9, are quite different from those of the Dominion Act. The words of s. 9, corresponding to those of s. 11 of our own Act above quoted, are as follows: "Where any license granted in the form set forth in the said Schedule (A.) is forfeited by the conviction of any indictable offence, or is revoked in pursuance of a summary conviction under this Act or any other Act of Parliament, the person whose license is forfeited or revoked shall, after undergoing any other punishment to which he may be sentenced for the offence in consequence of which his license is forfeited or revoked, further undergo a term of penal servitude equal to the portion of his term of penal servitude that remained unexpired at the time his license being granted, etc." Here it will be noticed that provision is only made for revocation of the license in pursuance of a summary conviction; and the section wholly lacks the comprehensive words "or otherwise," to be found in s. 11 of our own Act.

The Ticket of Leave Act is, without doubt, a piece of legislation which finds its *raison d'être* in modern humanitarianism; but it is a loosening of one of the safe-guards of society, and should not be extended by benevolent interpretation beyond the plain intention of Parliament.