

—refuse to restore them or disclose where they are. Upon the facts thus established in evidence a civil remedy arises. The plaintiffs seek to recover the value of their property by an appeal to our civil tribunals, and commence their proceedings by arresting the defendants under a "*capias ad respondendum*," and I am to determine what is the cause of action in this case. Is it the illegal taking alone? Is it the conversion or fraudulent detention of the bonds, or is it the refusal to return them or to disclose where they are? Are there so many separate causes of action, or do they, all combined, only constitute one, the same, and the real cause? It seems to me these questions can be answered without much difficulty or hesitation, and I am of opinion that the real cause of action is manifest by the illegal taking, coupled with the conversion or fraudulent detention of the bonds. Their refusal to restore them in Canada is no more, in point of law, than the refusal to pay a debt, contracted in New York. I, of course, view this question as one of law merely, and irrespective of the moral considerations which the facts of the case suggest. All that occurred in Canada, so far as we know, or can suspect, is the *continued* detention of the bonds, and the refusal to restore them. This is not the cause of action in this instance. I may reasonably presume, from the fact that they refuse to disclose where the bonds are, that they have them in their possession, or under their control in Canada,—in other words, that they still fraudulently detain them from the plaintiffs. There can be no doubt but that this fraudulent detention constitutes an important element in the cause of action in this instance, as the refusal to pay a debt forms an essential ingredient in the cause of action arising out of a civil obligation or contract. But even so, did this fraudulent detention of the bonds take its origin in Canada or in New-York? Plainly in the latter place. It commenced there,—was simultaneous with the illegal taking, and it was complete immediately upon the perpetration of the robbery. Thus, the illegal taking—the robbery, if you will, occurred in a foreign State,—the fraudulent detention therefore began, originated there. It may be remarked, moreover, that in regard to the con-

*tinued detention* of the bonds, I am left to deal with presumptions. There is no evidence whatever of a conversion of the bonds in Canada, or elsewhere as a matter of fact, though in contemplation of law it may be said that the conversion took place immediately upon the illegal taking. There is no positive proof that these bonds ever were in Canada. I presume they were, and I presume, moreover, that they are still in the possession, or under the control of the defendants. But on the other hand, I have what I may regard as conclusive evidence, as before stated, that the robbery was perpetrated, and the illegal detention commenced in New York,—in other words, that the entire cause of action arose, originated there, and not in Canada. To hold the contrary, in my judgment, would involve us in difficulties not easily overcome, and in propositions not very intelligible as propositions of law. It was strenuously contended by the plaintiffs' counsel that the fraudulent and continued detention of the bonds, coupled with the refusal to restore them, was a new cause of action, arising wherever the defendants went, even if they passed from the dominions of one sovereign state to another. That the mere fact of the defendants being in Canada with their property, under the circumstances disclosed, gave them, the plaintiffs, a right of remedy by *capias*. That although the robbery was perpetrated in New-York, the defendants immediately fled to Canada to consummate the villainy there; and there, where the plaintiffs first found them, and where they first became fully aware of their being the thieves, they have a right to the most rigorous remedy the law has placed at the disposal of a creditor. That robbers are an exceptional class of men, and must be dealt with accordingly in an exceptional manner; that the causes of civil actions arising out of crimes or *délits*; should not be dealt with in the same manner as those resulting from civil contracts; that the "*lex fori*" and not the "*lex loci contractus*," or in this case not the "*lex loci delicti*" governs the remedy; and that by the law of Canada, in a case like the present, arrest on civil process would be one of the means which our Court would sanction in enforcing such remedy. It was also urged that in view of the facts proved, these