CONVICTION QUASHED.

Full Court, Two Judges Dissenting, Decide in Favor of Robert Blythe.

The Prisoner Is Still Behind the Bars Charged With Seduction.

Yesterday the Full court delivered judgment quashing the conviction against Robert Blythe, who was sentenced to five years in the penitentiary for the abduction of Belle Rockwood. Justices McCreight, Walkem and Drake were in favor of quashing the conviction, Chief Justice Davie and Mr. Justice Crease dissenting.

The Chief Justice's dissenting judgment was read first and is as follows:

This case comes before the Court of Appeal by way of a case stated, in pursuance of Section 743 of the Code, upon a conviction under the Speedy trials act, whereby Robert Blythe was sentenced to five years' imprisonment in the penitentiary for having, on the 10th day of July, 1895, at the city of Victoria, unlawfully caused to be taken a certain unmarried girl, to wit, one Belle Rockwood, being under the age of sixteen years, out of the possession and against the will of her father, Eugene Rockwood, contrary to Section 283 of the Code.

The trial took place before me, sitting as a County court judge, and, after conviction, thinking there might be some doubt whether the facts constituted an offence over which the courts of British Columbia had jurisdiction, I offered to state this case, and, at the request of the prisoner, stated the same accordingly, respiting meanwhile the execution of the sentence.

The facts, as disclosed by the stated case and the evidence and correspondence returned therewith, show that Belle Rockwood, who was fifteen years old on the 17th October last, resided with her parents at Port Hadlock in the State of Washington. The prisoner, a married man, living with his wife and children at or near the same place, became acquainted with her there, and on the 4th March, 1895, when still at Port Hadlock, wrote her that he was obliged to leave at once, being accused of a "most horrible crime," but protesting his innocence. In the letter the prisoner offers to send for the girl if she will come to him. The prisoner then went to Victoria, where he continued correspondence with the young woman by letters of a seductive character, addressed to and received by her at her home, urging her to come to Victoria and join him. In one letter, dated 22nd May, the prisoner asks the young woman if she will come over to him about the first of July, provided he sends money to bring her over. He remarks in his letter that he expects her father and uncle would follow them all round the world and "fix me plenty, if you come to me, but it must all be done very quietly and under other names, you understand"; and in a postscript to another letter, dated 31st May, prisoner says: "I understand I am a free man now. That woman that I was married to has got what she wanted and will, I hear, marry Mr. Larsen shortly." The girl replied agreeing to come to the prisoner, saying in one of her letters: "If you wish me to come to you I will do so; glad enough to leave this abominable place."

The prisoner in his letters makes promises of marriage, but, in one letter received by the girl before starting, he says that he cannot marry her before she is eighteen years old, as a marriage in British Columbia before that age would be unlawful. In his letters he mentions the route by which she is to come, counsels her to register under an assumed name, and to dress herself in a way to appear older than she is, and promises to meet her on arrival.

By her own inclination, as the young woman remarks in her evidence, and influenced by the letters the prisoner had written her, she left her home on the 10th July, 1895, with the intention of joining the prisoner, who had sent her money to pay her fare to Victoria. She travelled from Port Hadlock to Port Townsend, a distance of seven miles, by steamer, and from there to Victoria, the same day, by the City of Kingston, which runs to and from Victoria daily. The prisoner met her on the arrival of the steamer at Victoria, and, as he walked from the steamer with the girl, he asked her to think seriously of her father, mother and sister; that it was not too late; the steamer returned that evening, and if she wanted to go back she was at perfect liberty to do so. The girl's reply was that she would rather stay with him, and he then took her to a restaurant, and afterwards to a house on Esquimalt road, where he introduced her as his wife, and remained with her that night.

The discussion of the case before the Court of Appeal, has removed any doubt which I entertained as to the propriety of the conviction.

Section 283 of the code enacts that everyone is guilty of a misdemeanor and liable to five years imprisonment who unlawfully takes or causes to be taken any unmarried girl being under the age of sixteen years out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her. The corresponding clause of this section was the 9 Geo. iv., chap. 31, sec. 20, under which it has been repeatedly held to afford no defence that the taking was with the girl's consent or even at her express request, for, as remarked by Maule, J., in R. v. Kipps, 4 Cox, C.C., 168, "the law throws a protection about young persons, of the sex and within the age specified by the statute. It has been determined by the legislature that at that age young females are not able to protect themselves or give any binding consent to a matter of this description." Consequently the Canadian code adds to the provisions of section 283 above quoted: "2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not."

The present case turns on two points: 1. Was the girl taken out of the possession of her father by the prisoner? 2 If so, where did that taking occur; in British Columbia or in the State of Washington?

That the girl was taken by the prisoner from her father's possession, there can, I think, be no question. A manual taking is not required, it is sufficient if, by persuasion, the girl leave the possession—R. vs. Kipps, 4 Cox C. C., 167—and there can be no doubt of the persuasion here—whether of the letters or what took place on the meeting at Victoria.

But it is urged that the persuasion, which is a constituent portion of the offance, consisted of the letters, which were all received in the foreign jurisdiction, and hence, as a material portion of the offence took place abroad; that the young woman when she arrived in Victoria had already abandoned her father's possession, and that the prisoner was guilty of no offence which our law could reach in taking her from the steamer. In fact, it was not a taking at all. The girl was free, and out of her father's possession; went with the prisoner voluntarily, and, so far from any persuasion being then exercised by the prisoner, he distinctly bade her think of father, mother, and home, and return by the steamer if she saw fit.

I am entirely unable to assent to this reasoning. The taking referred to by the statute is the actual taking. The blandishments and allurements which may have prepared the mind of the girl to willingly submit to or court the taking, although perhaps, as in this case, highly immoral, are not themselves punishable. Until some overt act on the part of the prisoner, there is a locus penitentiæ, and he may recede from his intended crime. So the prisoner here, if instead of taking the girl to the restaurant, and then to her destruction, had insisted that she abandon the evil purpose to which he had been alluring her, and return to her friends; had he even kept away from the place of meeting, he would have committed no criminal offence, whether in Washington or here. The very reply of the girl that she would rather stay with the prisoner, to his highly suggestive intimation that she was at perfect liberty to return home by the same steamer which brought her, shows that there were just the two alternatives in her mind—either to stay with the prisoner, or return to her home. So, if the prisoner had not taken the girl from the steamer she would have returned home, and there the matter would have ended.

In R. vs. Mycock, Willes, J., says: "The father has constructive possession of the girl so long as she has an intention of returning to him, and, as remarked in the case of R. vs. Mankletow, presently referred to, that constructive possession is not severed by a renouncement of possession conditional upon the prisoner meeting her at a particular place and taking her away."

In R. vs. Mankletow, the girl, by appointment, met the prisoner at a place two miles distant from her father's home. That case is reported in three places, viz: Dearsley's C. C., p. 159; 22 L. J., M. C., 115; and 6 Cox C. C., p. 143 It was decided by a bench of six judges: Jervis, C. J., Parke, B, Alderson, B., Wrightman, B, Cresswell and Coleridge, J. J.; was argued by eminent counsel for the prisoner, and is the only case I can find where similar questions to those arising here are exhaustively discussed. The other cases are trials at assizes, where hurried dicta are given by the presiding judge as governing the facts in the particular case in hand. Chief Justice Jervis in R. vs. Mankletow, says: "So long as the girl continues a member of her father's family, and is under his control, she is in his possession"; and Parke, B, as reported in "Dearsley," remarks: "Supposing the girl to have abandoned her father's possession, and the prisoner then to take her away, it would not come within the statute. But suppose she conditionally abandoned the possession of her father under the impression that the prisoner would be at a certain point to take her away, that would not be a determination of her father's possession."

That seems to me precisely what occurred here. The girl conditionally abandoned the possession of her father under the impression that the prisoner would be at a certain point to take her away; but, as remarked by Baron Parke, "That would not be a determination of the father's possession."

The Law Journal, reports Jervis, C.J., as saying: "The facts of this case show that there was a continuing possession in the father. The girl, by the prisoner's persuasion, left her father's house for the particular purpose of meeting the prisoner; if she had not met him she would have returned home; the possession of the father, therefore, was only conditionally renounced; by the act of taking, the prisoner severed the connection between the girl and her father, and so took her out of his possession."

In Cox, C.C., Chief Justice Jervis is reported as saying: "The girl left her house by the prisoner's persuasion, for the particular purpose of meeting the prisoner at an appointed place, and, until that purpose was accomplished, the control and possession of the father continued; if she had not met the prisoner, she would have returned home, but he interferes and persuades her to go with him, and she does so, and he takes her bundle and puts it with his own in the box. By these acts all care and control on the part of the father is determined, and at that time the prisoner takes her out of the possession of her father." To the question, then, "When did the taking out of the father's possession occur"? I answer, "At Victoria, when the prisoner met the girl at the boat and took her from there."

The fact of the prisoner, before taking her to the restaurant, reminding her of home and telling her that she was at perfect liberty to return there was, it seems to me, a most effective way of alluring and persuading the girl to go with him, instead of going home, just as effective as if he had then repeated every word which he had written in his letters.

So that, casting out of consideration for the moment, the letters and everything which had occurred previous to the girl's coming here, we have the fact that the prisoner knew that the girl had left her home that same day with the idea of meeting him; with this knowledge he meets her at, and takes her from, the boat, alluring her to accompany him, eventually, to the house on the Esquimalt road. Begun, continued and ended in British Columbia, I cannot conceive what is wanted to complete his crime. The girl had come to a foreign jurisdiction; but what difference can that make? It is not suggested that the law relating to the custody of children is different, and, until it is shown to be so, is presumed to be the same (Mostyn vs. Fabrigas, Sm. L. C., p. 684), and the father's possession would have been enforced here as well as there. It is no more an extraordinary thing for a young woman to take a trip to Port Townsend or Port Hadlock than it would be to Maple Bay or Salt Spring island. You would take a steamer either way; the distance is about the same, and the time occupied on the trip about as long. You would not think that a young girl taking the latter trip had thereby necessarily abandoned her father's possession, although she had gone there to meet her lover and might possibly elope with him, and why should you so consider, because, instead of going to Salt Spring island or Maple Bay, she goes to Port Townsend or Port Hadlock or vice versa? The imaginary boundary line can make no difference.

I grant that if the prisoner had known nothing of the girl's parentage, and if she had apparently been a waif and stray, he, as in R. v. Prinnett, 1 F. & F., or R. v. Green and Bates, 4 F. & F., could not have been considered as taking her out of her father's possession; but that is not the case here. He knew full well when he met her, where she had come from on that very day. It is true that in R. vs. Olifier, 10 Cox C. C., 404, Baron Bramwell, at nisi prius, expresses the opinion that "if a young woman leaves her father's house without any persuasion, inducement or blandishment held out to her by a man, so that she has fairly got away from home, and then goes to him, although it may be his moral duty to return her to her parents' custody, yet his not doing so is no infringement of the act of parliament, for the act does not say he shall restore her, but only that he shall not take her away." But this is a mere obiter dictum, unnecessary, for determination even, of the case then in hand. If the instance put by Baron Bramwell is intended to include the case where the man is or becomes aware of the parentage, I cannot reconcile it with the reasoning of Willes, J., in R. vs. Mycock, 12 Cox C., 28, and of Cockburn, C. J., in ex parte Barford, 8 Cox C. C., 405

In the former case Willes, J., remarks that the prisoner had no more right to deprive the father of the girl, of his property as it were, in her, than he would have a right to go into his shop and carry away one of his telescopes or optical instruments. By the same reasoning then, it seems to me, a man, finding a girl under sixteen, and discovering her home and parentage, has no more right to deprive the father of the girl, of his property as it were, in her, by keeping her, than would a man finding one of her father's telescopes or optical instruments in the streets, knowing it to be her father's, to keep it and appropriate it to his own use. He would be bound to return the telescope, and, so it seems to me, would be to restore the girl.

In ex parte Barford: Howse and Hopkins were not in any way responsible for the girl's leaving her father's house, but they retained possession of her, knowing of her parentage, and Cockburn, C. J., remarks that if they had been indicted under the 9 Geo. IV, c. 31, s. 20, no one could doubt that they would have been liable to be convicted of the offence.

That case also lays down the principle followed in re Agar-Ellis, L R. 10 ch., div. 49, that a father, if there be no disqualifying cause, has a right to the custody of a female child up to the age of sixteen, although she be unwilling to live under his care and control. Chief Justice Cockburn gave the judgment of Hill and Blackburn, J. J., and himself, and stated that in coming to the conclusion which they did, they had consulted with the judges of the other courts, all of whom were unanimous in opinion with the judges of that court.

At most, then, what took place here was a conditional abandonment of the parents' possession. If the prisoner was prepared to meet her and marry her, or whatever it may be, the girl was prepared to abandon her father's possession, not otherwise. Under these conditions, then, her father's possession continued until the purpose of her coming here was accomplished by the prisoner taking her away.

I am therefore of opinion that the prisoner's offence was wholly perpetrated in British Columbia, by his there taking the girl, Belle Rockwood, out of her father's possession, and that the conviction should be affirmed. (Sd) THEODORE DAVIE, C. J.

Mr. Justice Crease's judgment concurred with that of the Chief Justice.

Mr. Justice McCreight's judgment, after setting forth the facts as they came out at the trial, proceeds:

Having regard to the remarks made by the judges in Reg. vs. Mankletow, 6 Cox Criminal Cases at p. 146 and see the same case in 22 L.J., M.C., at p. 117; Reg. vs. Mycock, 12 Cox C C, p. 290, it appears essential to the case being within the act that the girl should be "in the possession of her father, or other person having the lawful control of her" at the time of the unlawful taking, and, sitting as a juryman (and a judge sitting in appeal like this has to discharge the functions of a juryman as well as a judge), it becomes incumbent on a judge to determine whether the girl was in the possession of her father on her arrival in Victoria, so as to be taken out of that possession by the prisoner in that place; and a judge must find that such possession of the father continued in Victoria up till the time of taking; and the judge must be satisfied on this point beyond all reasonable doubt. I must say that, far from being satisfied as to such possession beyond a reasonable doubt, I should find reasonable to conclude that the girl had abandoned such possession before leaving Port Townsend for a foreign country. From this point of view alone I think the conviction cannot be sustained.

But there is a further point of view from which I think the conviction cannot stand. In Regina v. Olifier, 10 Cox C.C., 404, Baron Bramwell points out that in that case the persuasion of the prisoner constituted the motive cause of the girl leaving her home. The letters which passed between the girl and the prisoner, and which, of course, only operated in Washington, leave no doubt on my mind that they were the main and the motive cause of her leaving, and, if so, some material factors in this case took place out of the jurisdiction of this court, and the difficulty is analogous to what used to take place at common law before remedied by statute, where a man received a fatal blow in a foreign country and died in England.

I have only to add that I am quite unable to say, as a juryman, that the evidence in this case warranted the conviction.

(Signed) J. F. MCCREIGHT.

Mr. Justice Walkem concurred in the judgment of Mr. Justice McCreight to quash the conviction.

Mr. Justice Drake in his judgment said: In my opinion this conviction must be quashed. The offence aimed at in the code is taking a girl under the age of 16 out of the possession of and against the will of her father. In order to give this court jurisdiction the possession of the father must be within the territorial limits of Canada. If the prisoner had gone over to Port Hadlock and personally assisted the girl in the elopement, the offence would be complete in the State of Washington and the laws of the United States would apply and not our code. Instead of personally assisting, the prisoner arranged the elopement by correspondence, and supplied the necessary funds. In my opinion the result is the same, the persuasion equally took place in a foreign country. The prosecution endeavored, therefore, to show that the abduction, that is taking the girl out of the possession of her father was effected when the prisoner met her on the wharf at Victoria. This is not so, for if instead of the prisoner some charitably disposed person had met her and taken her in charge it could not be said he abducted her, although her arrival here was against the will of her father. There must be some active step within the jurisdiction, to unlawfully get possession of the girl against the will of her father. But it might be urged the prisoner is guilty because her arrival here was induced by him; but, in order to convict, the inducement must have been offered here. Of that there is no evidence; in fact, the evidence shows that the prisoner pointed out to her that she could leave if she wished. The girl when she arrived here was de facto out of the possession of her father. The statute contemplates a de facto possession. If she left her father's house on a visit with his consent, this would be consistent with actual possession if the father was within the jurisdiction. But, if she left without his consent and went to a foreign country, she is the person who has severed the connection between her father and herself. And, although by following her to the place of her retreat he may be able to establish a possession de jure, that is not the possession contemplated by the act.

I consider the conduct of the prisoner scandalous in the extreme, but however bad and unnatural he has shown himself to be, he has not brought himself within section 283. All the cases cited deal with cases where the parties were within the jurisdiction from the first inducement to the ultimate removal.

In R. v. Mondelet 21 C., J. 154, the authorities which were cited and fully discussed in the argument were all reviewed, and it was there held that if a girl had left home voluntarily and then met the prisoner it would not be a case within the statute; and for the purposes of this case it must be held that only the acts that took place on Canadian soil can be looked at. In R. v. Harper, 16 Cox, 258, where a girl employed as a barmaid, with her father's consent, was taken away by the prisoner, it was held he could not be convicted of taking her out of the custody of her father, and in R. v. Miller, 13 Cox, 179, when a girl went to visit her parents from Sunday to Monday, but by arrangement with the prisoner left her parents' house on Sunday and went with him, it was held she was not in her father's possession at the time of the alleged offence, but of her master.

These cases clearly show that there must be an actual possession in the father at the time of the taking, which, as I have pointed out, was a taking on arrival of the boat in Victoria, and I see no evidence of it here.

(Sd) M. W. T. DRAKE.

Mr. A. G. Smith for the Crown; Mr. Frank Higgins for Blythe.

Blythe is not a free man although the abduction case has fallen through. As soon as the full court rendered its decision Blythe was immediately charged on an information of Superintendent Hussey with seduction of Belle Lookwood. The charge, though a serious one, does not under the criminal code bear as heavy a sentence as abduction, five years being the limit in the case of abduction, while for seduction two years is the limit. When the girl gave her evidence at Blythe's trial she denied that there had been seduction, but in spite of this it is understood that she has since changed her mind, and there is also some other strong evidence that will be produced. To-day at 2 o'clock Blythe will be brought before the police magistrate, but a remand will no doubt be asked for, so that the necessary witnesses may be procured.

FRUIT GROWING.

The following interesting communication appears in a recent issue of the Durham, England, Chronicle:

TO THE EDITOR: SIR,—As there are thousands in this country anxious to know something of new countries and the prospects of bettering their condition, I beg to place before your readers some of the advantages of the Dominion of Canada, and of British Columbia in particular, and on which I dwelt in my lecture in your city on the 17th ult. As I have been a resident of that country for 27 years, or since I left Tyneside, and have travelled all over the Dominion, I am in a position to give reliable information.

The Dominion of Canada is nearly as large as all Europe, British Columbia alone being about six times larger than England. The population is only about 5,000,000, about 100,000 being in British Columbia. It possesses a healthful climate, and the scenery is the grandest in the world, being made up of great mountains, beautiful valleys, long rivers and extensive lakes. The country is covered with fine farms, occupied and owned by men who began life with very little capital. There are thousands who left this country 20 and 30 years ago with very little means, excepting strong wills and willing hands, amongst the leading men of the country, and possessing in their declining years ample means.

Although there are good openings all over Eastern Canada for farmers, and particularly for those who have sufficient means to purchase improved farms, I would especially direct the attention of the English public to the great possibilities of fruit-growing in the province of British Columbia, which province possesses a climate unusually mild and salubrious, and well adapted for the raising of all the fruits usually grown in the temperate zone. It is generally believed that British Columbia will become to the Dominion of Canada what California is to the United States, viz, the great fruit producing section which will supply the whole country east of her borders with all the fruit the country may require. The largest and finest apples, beautiful plums, well-flavored cherries, that will compare favorably with those raised in any country, pears large and juicy, and other fruits, large and small, too numerous to mention, can be grown in great profusion in the Pacific Province. At present we have not enough growers to supply the home market, hence the openings in that industry are numerous, and there is every prospect of it becoming a profitable business, as from £60 to £120 worth of fruit can be grown from one acre; therefore a man owning from 4 to 10 acres is assured of a good income after the trees come into bearing, which may probably be about three or four years after planting. Before that time, however, the fruit grower can raise small fruits, such as strawberries, raspberries, gooseberries, currant-berries, and the various kinds of vegetables usually raised in market gardens. None need be afraid of making a beginning who can command the sum of £200, and none need be afraid of the people of the country, as the country is under British rule, and law and order are well established, and above all it is a desirable place to live in, as the climate is all that can be desired, for it will compare favorably with the South of England.

If there are any of your readers who desire further information of that beautiful country, if they will write me, enclosing a stamp for reply, I shall be happy to give them the desired information.—Yours, etc.,

(Rev.) THOMAS HADDON.

Gateshead, Low Fell, 24th July, 1895.

EARLY in the present year Ald. John Macmillan suggested in the city council the desirability of furnishing each taxpayer annually with a rough memorandum of how the city revenue, to which he contributes, is expended. The same alderman has now given formal notice of a resolution in this direction, which will be considered at tomorrow evening's meeting of the aldermanic board, and which reads as follows: "That the auditor be instructed to prepare a statement showing approximately the revenue for the current year, with the estimated percentage required for the various civic departments herein named and for the payment of interest and sinking fund on the city debt." The various heads mentioned are "total approximate revenue," and percentage devoted to civic salaries, education, police, fire department, water works (maintenance), electric light (maintenance), streets, bridges and sidewalks (maintenance), streets, etc. (new work), sewers (maintenance), board of health, charities (including the Old Men's Home), and interest and sinking fund accounts.

Steamer Coquitlam was at the outer wharf last night receiving Nanaimo freight.

THE ROBERT BLYTHE CASE.

Opening of the Hearing of the Second Charge—The Plea: Not Guilty.

Text of Mr. Justice Walkem's Interesting Judgment Against the Original Conviction.

Robert Blythe—whose conviction and sentence to five years' imprisonment for the crime of abduction was set aside by the Full court on Monday, on the technical ground that the offence was committed outside Canadian territory and therefore beyond the jurisdiction of Canadian courts—was yesterday again arraigned in the provincial court, charged with the seduction of Belle Rockwood. His Honor Police Magistrate Macrae presided, and received from the prisoner a plea of not guilty. Blythe declined to make any statement, and was thereupon remanded for eight days so that the girl, her father and other witnesses may be brought to Victoria from Port Hadlock, Wn., where all parties reside. The girl, although unwilling at the first trial to say anything prejudicial to the prisoner's interests will, it is believed, take the box and give material evidence against him at the present hearing. There are other important witnesses to be called and the officers of the crown promise to present a very strong case. Blythe has a brother residing on the American side who has now interested himself in the defence and according to report is circulating a subscription list in the prisoner's behalf.

"Appended is the interesting judgment of Mr. Justice Walkem, in which he gives the reasons upon which his decision had been reached that the conviction of the prisoner Blythe should be quashed. After stating briefly the facts of the case the judgment proceeds:

"The conviction in this case could have been supported if the persuasion used by the prisoner to induce the girl to leave her father's roof had taken place within this jurisdiction; that is to say, after the girl had arrived here. In Olifier's case (10 Cox C.C., 404) Baron Bramwell thus lays down the law, not as an obiter dictum as has been just stated to have been the case by the Chief Justice, but for the guidance of the jury: 'I am of opinion that if a young woman leaves her father's house without any persuasion, inducement or blandishment held out to her by a man, so that she has got fairly away from home, and then goes to him, although it may be his moral duty to return her to her parents' custody, yet his not doing so is no infringement of the act of parliament, for the act does not say that he shall restore her, but only that he shall not take her away. It is, however, equally clear that if the girl, acting under his persuasion, leaves her father's house, although he is not present at the moment, yet if he avails himself of that leaving which took place at his persuasion that would be taking her out of her father's possession, because the persuasion would be the motive cause of her leaving.' In Booth's case (12 Cox, C.C., 232) the question of persuasion was the first one left to the jury, not as an incidental question, but as part of the issue—'The real issue for you to try,' said the learned judge, 'is simply this: Was she taken out of the possession and keeping of her father without her father's consent? Did the prisoner take her away?' Both of these authorities illustrate the importance attached to persuasion. In both, it is dealt with as a necessary element or factor in cases of abduction, for, according to Baron Bramwell, where there is no persuasion, 'there is no infringement of the statute.'

"In the present instance, persuasion was used by the prisoner in his letters to the girl to induce her to leave home; but the letters were received by her and influenced her at Port Hadlock; hence the act of persuasion took effect beyond this jurisdiction. We have, therefore, no more authority to take cognizance of this stage of the prisoner's alleged offence, than we would have had to entertain jurisdiction over the complete offence, had it been committed in the State of Washington. Consequently, the letters, so far as they held out the inducement mentioned, should not have been admitted at the trial as evidence against the prisoner. The arrangement (call it conditional if you will, to meet Baron Parke's observation in Mankletow's case) which was made through the medium of the same letters, to the effect that the prisoner would meet the girl when she landed here, is open to the same fatal objection, as it was one of the inducements referred to and, therefore, one of the acts which formed part of the offence complained of; for every act—need I say?—which serves in the whole or part to constitute an offence under our criminal law must occur or be committed within the territorial limits over which that law extends, or in other words, within the Dominion, otherwise we have no authority whatever to adjudicate upon it. Again, I am unable to hold with that degree of certainty which the criminal law holds to be indispensable that the girl was constructively in her father's possession after she left his house or at any rate, after she had landed here; and if she was not, and even if it were doubtful that she was, the prisoner is entitled to his discharge.

"In addition to this, the prisoner so far from persuading the girl after she arrived here to leave her parents, dissuaded her from doing so, as appears by the following notes taken of her cross-examination: 'You,' (the prisoner) 'met me at the warehouse,' (meaning the City of Kingston's wharf in Victoria). 'I do not remember the exact conversation as we came from the steamer.' (Prisoner)—'Did I not ask you to think seriously of father, mother and sister: it was not too late, the steamer returned that evening, and if you wanted to go back, you were at perfect liberty to do so?' 'Yes.' 'Was not your answer 'No, Robert, I would rather stay with you?' 'Yes.' It may be said that the prisoner acted very artfully in putting such questions and giving such advice, and that he expected no other answer than he got; but that matters not, so long as the girl thought that he was in earnest in what he said, and there is no evidence that she did not.

"Coupling the girl's avowed refusal to return home with her statement in her letters to the prisoner that she was glad at the prospect of leaving it, as it was to her an 'abominable place,' and that the only person she regretted leaving was her aunt, also with the fact that she made deliberate preparations to depart with the intention of marrying the prisoner and then crossed the straits into a foreign jurisdiction, it seems to me only reasonable to conclude that from the moment she left her father's roof she meant to renounce his protection; and that being so, his constructive possession of her would be gone (see 12 Cox, C.C., 28). It would have been quite a different thing if, for instance, she had come here on a visit to friends with her parents' consent, for, in such a case she would be constructively in her father's possession, as a visit would of itself imply an intention to return; but the facts before us are opposed to the inference that she had any such intention, and, hence, according to the decision last cited, she was not in her father's possession, at any rate, when the prisoner met her.

"Again, as the prisoner, after the meeting, used no persuasion to induce her to abandon her home, his subsequent taking her away, though strongly to be condemned, is not an offence within the meaning of the section of the criminal code under which he has been convicted.

"For this and the foregoing reasons, the conviction should be quashed

(Sd.) "GEO. A. WALKEM, J."

THE COURTS.

Yesterday Mr. Justice Drake gave judgment in chambers on the application for leave to sign final judgment in Prevost & Chambers. The judgment is as follows:—

This is an application for leave to sign final judgment against defendant Chambers under Order xiv. The defendant alleges, amongst other grounds of defence, that the judgment alleged to have been recovered against Sayward on August 9 was void. This raises an issue I cannot determine on affidavit. He further alleges that the bond sued on was given on a condition which was broken, and that therefore the bond is void. This is another ground of defence which can only be decided at the trial. I therefore must refuse the order asking for ——costs in cause.

The second application is that the plaintiff be given security for costs, on the ground that he is a plaintiff not mero motu, but made so under order of the Court. I know of no authority, and I was referred to none, when a plaintiff within the jurisdiction was ordered to pay security for costs unless he was an insolvent—a payment under some disability.

If a person is proceeding with on action in the name of the person on the record, and that person is in a state of pauperism, the Court will order security—Andrews v. Morris, 7 Daw, 712. This is not shown here. I therefore refuse the order. Costs to be plaintiff's costs in cause. E V. Bodwell for the plaintiff; L. P. Duff for the defendant.

"What's the matter?" asked the policeman, "haven't you any place to go?"

"Any place to go!" replied Meandering Mike with contempt. "I've got so many places ter go dat its worryin' me dizzy makin' up me mind which way ter start."—Washington Star.

Armour & Co., of Chicago, are arranging for a machine with a killing capacity of 6,000 hogs in a half day, just twice as many as the house manages to kill in a whole day at the present time. Whether the new machine will retire the workmen or a part of the gangs at present at work is not known, but the capacity of the works will be quadrupled.