

HON. SIR JOHN BOYD, C.

JUNE 24TH, 1912.

## YOUNG v. CARTER.

3 O. W. N. 1486; O. L. R.

*Contract—Convict Undergoing Confinement for Indictable Offence—Freedom to Contract—Criminal Code, s. 1033—Imp. Statutes, 33 & 34 Vict., c. 23—Not Applicable in Canada.*

BOYD, C., held, that the fact that a person is undergoing confinement in a penitentiary as a punishment for an indictable offence does not deprive him of his property nor interfere with his freedom of contract.

*Dumphy v. Kehoe*, 21 Rev. Leg. 119, followed.

That Imperial Statutes 33 & 34 Vict., c. 23, providing for the appointment of an administrator to a convict's property and forbidding him to alienate the same or to contract, is not in force in Canada.

An action to set aside a lease of an hotel premises made by the plaintiff to defendants, for three years, from the 1st May, 1910, in renewal of a former lease.

The renewal lease was executed by the plaintiff on 15th August, 1910, while he was serving a term of imprisonment in a penitentiary. He was released on parol in January, 1911, and brought this action in April, which was heard by HON. SIR JOHN BOYD, C., without a jury, in June of that year, at Fort Frances.

G. S. Bouie, for the plaintiff.

A. D. George, for the defendants.

HON. SIR JOHN BOYD, C.:—The plaintiff seeks to undo the renewal of a lease of hotel premises, made by him to the defendants for three years from the 1st May, 1910. The renewal of the prior lease between the same parties was dated on 7th April, and was executed by the plaintiff on 15th August, 1910, while he was serving a term of imprisonment in the penitentiary at Stony Mountain, Manitoba. The nature of his offence is not disclosed in the plaintiff's evidence. But I am told it was for perjury. He was released on parol in January, 1911, and this action was brought in April of that year. No case was made out at the trial for relief on the ground of the plaintiff being over-borne by threats or pressure so that he was coerced into signing the document. There was a mortgage upon the property, and