of the offence charged—rape. It appeared at the trial that a letter was written, after the offence, by the solicitor for the prosecutrix and given to her husband to shew to the defendant, enclosed in an unsealed envelope addressed to the defendant; it was said that the letter was given to the defendant for perusal, was returned to the husband, and by him given back to the solicitor. It was not produced at the trial, nor was evidence given of its contents. In the charge to the jury, their attention was directed to this. While the jury were deliberating, the foreman sent to the Judge, by the Registrar of the Court, a note asking for the letter. The Judge instructed the Registrar to inform the jury that it was not possible to give them the letter; and the Registrar went to the jury-room for that purpose.

A stated case was asked for in respect of the following questions: (1) Was the Judge right in giving instructions or directions to the jury in the manner and by the means employed? (2) Was the Judge right in directing the jury that the letter was not evidence without pointing out that the fact as to the writing and delivery of the letter was proved, and also the facts as to how the letter was addressed? (3) Should the Judge have compelled the Crown to produce the original letter, or, on proof of its loss, have allowed secondary evidence of its contents to be given?

E. E. A. DuVernet, K.C., and D. C. Ross, for the defendant.
J. R. Cartwright, K.C., for the Crown.

KELLY, J., said that it had been held that a reserved case should not be granted unless the trial Judge has some doubt in the matter as to which it is suggested that a question be reserved: Regina v. Létang (1899), 2 Can. Crim. Cas. 505; Rex v. Brindamour (1906), 11 Can. Crim. Cas. 315; and in the present case he had no doubt about the propriety of refusing the application.

Willmont's Case (1914), 10 Cr. App. R. 173, cited by counsel for the defendant, distinguished.

Motion dismissed with costs.