

Verbal evidence of an interest in property generally will not sustain an indictment under 32-33 Vict. c. 20, s. 54, which sets forth the abducted person's interest in a particular property.

It is not necessary, on an indictment under the second disposition of s. 54, to establish the prisoner's knowledge of the woman's interest.

RAMSAY, J. This is a reserved case from the Court of Queen's Bench, sitting in the district of Iberville. The prisoner was indicted for that he "did feloniously and fraudulently allure, take away and detain one Louise Dupuis out of the possession and against the will of Joseph Jean-Baptiste Dupuis, her father; he, the said Joseph Jean-Baptiste Dupuis, having then the lawful care and charge of the said Louise Dupuis, she, the said Louise Dupuis, then being under the age of twenty-one years, and having a certain, legal, absolute and present right and interest in the following described property." Then follows the description of the property it is alleged the said Louise Dupuis held under a certain deed; and the indictment concludes thus:—"With intent her, the said Louise Dupuis, to carnally know, against the form," &c.

The indictment is under section 54, 32-33 Vict., cap. 20.

The prosecution attempted to prove the interest of Louise Dupuis in the property described, by a notarial copy of the deed mentioned in the indictment. Objection was taken to this, and the Judge maintained the objection. The prosecution then proceeded to prove generally by witnesses that she had an interest worth \$10,000 in property.

The prisoner was convicted, and the judge reserved the following questions for the consideration of this Court:

1st. Was the verbal testimony to which objection was made allowable and sufficient to sustain the indictment in that respect?

2nd. Is the indictment sustained without evidence of the prisoner's knowledge that Miss Dupuis was an heiress?

I am inclined to think that the indictment should set forth the interest of the woman in the property. It is a substantial fact which the prisoner has a right to rebut. He cannot do this unless he is told what the interest is. But it is not absolutely necessary for the court to

decide that question here, for there can be no doubt that when the interest is set forth in the indictment, as it is in this case, the prosecution must prove it as laid. The verbal evidence of an interest in property generally cannot sustain this indictment. We do not decide, let it be observed, that verbal evidence of interest cannot be given. That is not the question submitted, and it is evident that there might be an interest which could only be proved by parol.

On the second point reserved, I think it was not necessary for the prosecution to prove the knowledge of the prisoner as to the interest of Louise Dupuis. The distinction referred to by the counsel for the Crown is made very clear by reference to the Statute. There are two categories established by section 54. First, there is the case of a woman possessing property, of any age, abducted "from motives of lucre." If the prisoner had been indicted for this offence, it would have been necessary to establish the motive, and to do this some proof of knowledge on his part, or at all events belief, probably would be required. *R. v. Barratt*, 9 C. & P. 387. But in an indictment under the second disposition of the section (the present case,) it is not necessary that there should be any motive; the intent to carnally know, or to marry, or to cause to be, etc., is all that is required to make up the offence.

On the first point, then, we are of opinion that the conviction is bad, and the prisoner should be discharged.

Conviction quashed.

Mercier, for the Crown.

Carter, Q.C., for the prisoner.

IN CHANCERY, ONTARIO.

Warehouseman—Warehouse Receipt—Acquirement by Bank directly—Power of Federal Parliament—Mixture.—W. S., a member of a firm engaged in the business of buying and selling coal, was lessee of a wharf, where the coal belonging to his firm was stored. Other articles had been stored there.

Held, that he was sufficiently qualified, under 34 Vict. cap. 5, p. 46, to give a warehouse receipt upon such coal.

Under 22 Vict. c. 20, a warehouse receipt could be taken by a bank by endorsement