

on that date removed to the hospital at St. John, N.B., where he remained until April 15, 1898, and since that date he continued to reside at St. John, N.B. On an application by the owners of the defendant steamer affidavits were produced that plaintiff belonged to Yarmouth, N.S., and that it was believed his residence in St. John was temporary, and would not continue later than the trial of the action. The plaintiff stated in affidavit on reply that he was residing in St. John permanently, and had no present intention of removing therefrom, and was unmarried. Prior to the action he had never had a residence in St. John. For the defendants it was contended that the practice of the court should be governed by Order 65 Rule 6A of the English Judicature Act rules by which the decisions of *Redondo v. Chaytor*, 4 Q.B.D. 453, and *Ebrard v. Gassier*, 28 Ch. D. 232 had become obsolete, and that the court was not to be bound by the Provincial decision of *Newcombe v. City of Moncton*, 31 N.B. 386.

Held, that the application should be refused.

J. R. Armstrong, Q.C., for the application. *A. A. Stockton*, Q.C., and *C. J. Coste*, contra.

Manitoba.

QUEEN'S BENCH.

Full Court.]

REGINA v. HODGE.

[Dec. 10, 1898.]

Criminal Code, s. 61—*Theft—Accessory—Receiver of stolen goods.*

The prisoner was convicted of having received a steer knowing it to have been stolen, but the principal evidence at the trial was such, that if it was fully accepted, it would, under s. 61 of the Criminal Code, have warranted the conviction of the prisoner on a charge of having stolen the animal, as it showed that he was an accessory before the fact, and had furnished the thief with a rope to lead the steer away, and his counsel contended that he should have been prosecuted for the theft and could not therefore be convicted of the receiving. He relied on *R. v. Owen*, 1 Moo. C.C. 96; *R. v. Evans*, 7 Cox C.C. 151; *R. v. Coggins*, 12 Cox C.C. 517, and *R. v. Perkins*, 2 Den. C.C. 459.

Held, following *R. v. Craddock*, 2 Den. C.C. 31, and *R. v. Hughes*, Bell C.C. 242, that an accessory before the theft who had subsequently received the stolen article might properly be convicted of either or both offences. Conviction affirmed.

Patterson for the Crown. *Bonnar and Heap* for the prisoner.