

oner. I accept counsel's statement as to the character of his client's literature, etc., without comment.

Graf applies to be released from custody upon many grounds; and, of course, blackguard as he is, he is entitled to every advantage the law may give him. Men, under our system, are not to be punished for sin, or even for committing a crime, unless they have been proved guilty of crime in the proper way. Our Code provides, by sec. 1027, specifically for this.

The case was argued very fully and ably by Mr. Armour. I now proceed to dispose provisionally of the points raised, in their order—premising that this is an application for discharge from prison upon the return of a writ of habeas corpus with a certiorari in aid.

1. It is urged that there is no evidence that the sale complained of took place in Canada.

The information is that the "said Martin T. Graf, alias M. Munroe, in the month of March, 1909, at the city of Toronto, in the county of York, did sell a quantity of obscene books, printed matter, pictures, and photographs, tending to corrupt morals."

The charge is laid under the provisions of the Criminal Code, R. S. C. 1906 ch. 146, sec. 207 (a). The evidence is given by gentlemen who are said by counsel for the prisoner to be police detectives, who say that they found the articles produced, part of them upon the person of the prisoner, and the rest in a satchel and valise in his room—that the prisoner at first denied, but afterwards admitted, that the valise was his, and said he had sold all these things for \$200. "He did not say he had sold them here, so far as I remember, but he said he was here and expected to get the money here that day; we were at the — House in this city at the time of the conversation."

No evidence was offered for the defence.

This is not wholly unlike the cases of *Rex v. Highmore*, 2 Ld. Raym. 1220, and *Rex v. Jeffries*, 1 T. R. 241, in which the jurisdiction of the magistrate depended upon the locus of the offence. It was held that it must be affirmatively proved from the evidence that the offence was committed within the prescribed place.

In an application for discharge under a writ of habeas corpus, in the case of a conviction under the Liquor License Act, it is said: "The Court will examine the depositions