

remains in force under Cr. Code, s. 11, subject to the change made by the Criminal Code as to the nature of the punishment.

[See Cr. Code, s. 460.]

2. A judge of the Supreme Court of Canada has concurrent jurisdiction with provincial courts to grant a writ of *habeas corpus* under the Supreme Court Act, R.S.C. (1906), c. 139, s. 62, in respect of a commitment in a criminal case where the commitment is in respect of some act which is made a criminal offence solely by virtue of a statute of the Dominion Parliament, and not where it was already a crime at common law or under the statute law in force in the province on its admission into the Canadian Confederation and which had not been repealed by the Federal Parliament.

Re Sproule, 12 Can. S.C.R. 140, applied.

J. Travers Lewis, K.C., for applicant. *E. F. B. Johnston*, K.C., for Attorney-General for British Columbia.

Province of Ontario.

SUPREME COURT.

Garrow, Maclaren, Meredith,
Magee, and Hodgins, JJ.]

[Jan. 15.]

COOPER v. LONDON STREET R. CO.

(9 D.L.R. 368.)

Street railways—Duty of railway company—Usual stopping place—Negligently running past stationary car—Trial—Submission of questions to a jury—Lack of care in running car—Car stationary discharging passengers—Taking case from jury—Negligence—Personal injuries.

1. A passenger who had just alighted from a street car which was being met on a parallel track by another, at a point where cars usually stopped to discharge and receive passengers, and where, to the knowledge of the railway company, it was the custom or habit of persons alighting from cars to cross a parallel track in order to reach another street, is not necessarily guilty of contributory negligence, where the fact that another passenger warned the plaintiff, a woman, to look out for the car, might well have flurried and perturbed her, as witnesses said, and led her to lower her head in the face of a strong wind, as