

plainant had sworn that he recognised the defendant Harvey as the man with whom he had dealings; but at the trial he said that he was not sure. "To the best of my knowledge, he was the man."

The case was heard by MULOCK, C.J. Ex., CLUTE, RIDDELL, SUTHERLAND, and KELLY, JJ.

W. Horkins, for the defendants.

J. R. Cartwright, K.C., for the Crown.

THE COURT were of opinion, for reasons stated at the conclusion of the hearing, that it could not be said that there was no evidence to support the conviction of Harvey; and, Harvey being convicted, there was ample evidence against Taylor.

MULOCK, C.J. Ex., said that, if the case had been tried before him with a jury, he should not have allowed the case against Harvey to go to the jury.

CLUTE and RIDDELL, JJ., thought the case could not have been withdrawn from a jury.

THE COURT answered the first question in the affirmative. The second question then became immaterial.

Conviction affirmed.

SECOND DIVISIONAL COURT.

MARCH 1st, 1918.

*BARCHARD & CO. LIMITED v. NIPISSING COCA COLA BOTTLE WORKS LIMITED.

Chattel Mortgage—Action by Division Court Judgment Creditors of Mortgagor to Set aside—Mortgage Void under Bills of Sale and Chattel Mortgage Act—Failure to Issue Execution under Division Court Judgments—Neglect to Adopt Simple and Inexpensive Procedure—Amounts of Judgments Paid by Judgment Debtors after Commencement of Action to Set aside Chattel Mortgage—Costs of Action and Appeal.

An appeal by the defendants from the judgment of LATCHFORD, J., at the trial, in favour of the plaintiffs in an action to set aside a chattel mortgage made by the defendant company to the defendant Taylor.