case. Clarke says the section of our Act is materially different from the English Act, and the decisions on the latter Act will not apply. "It is not necessary that the payment should "be made with a view of giving a preference, "nor is it necessary that the creditor should "obtain an unjust preference by the payment, "nor is the element of fraud necessary. If the "payment is made within the thirty days, and "the debtor is then unable to meet his engage- "ments to the knowledge of the creditor, or if "the latter has probable cause to believe such "inability, the payment will be void without "anything further being shown"; and this was in accordance with the observations of Wilson, J., in *Churcher* v. *Johnston*; and of Lord Westbury, 4 Moore's P.C. cases, p. 222, on a similar enactment of the Legislature of Jamaica. The judgment would therefore be confirmed.

Doutre, Branchaud & McCord for appellants.

Abbott, Tait, Wotherspoon, & Abbott for respondent.

BEATTIE (defendant below), appellant; and WORKMAN (plaintiff below), respondent.

Guarantee—Acceptance.

MONK, J., (*diss.*) The action was brought against Beattie in the court below, to render an account, and the present appeal was from two judgments, one ordering an account, and the second setting aside the account rendered. The facts of the case were somewhat peculiar. In 1872, a man named Beattie was receiving a large quantity of leather from Hale, a tanner, and being interested in the success of Hale's business, he, by letter, in consideration of respondent indorsing Hale's note for $2,000, agreed to hold any surplus from the sale of the leather to the extent of $2,000, for respondent's account, against the note. Respondent was thereby induced, as he alleged, to indorse a a note for $2,200, which he had to take up. He then brought this action, setting up the letter, and claiming an account of the leather. His Honor considered that the letter was a mere offer, and unless accepted by the party to whom it was addressed, imposed no liability on the writer. The indorsement was not for $2,000 as specified in the letter, but for $2,200.

DORION, C. J. The letter was not an ordinary guarantee, because Beattie contracted no liability, except to the extent of agreeing to retain in his hands the monies which should come into his hands to the extent of $2,000. It was plain that Workman indorsed the note on this guarantee. It was true that the note was made for $2,200 instead of for $2,000, but this did not make any differance. Because Workman did a little more than Beattie asked was no reason why the former should not recover to the extent of $2,000. The judgment of the court below should, therefore, be confirmed.

RAMSAY, J. The question was whether there was a substantial compliance with the condition. The law does not require a literal compliance. His Honor believed that there was a substantial compliance when Workman endorsed the note.

TESSIER, J., remarked that the authorities cited by the appellant would be applicable where there was an absolute guarantee for the sum specified.

Judgment confirmed.

Kerr & Carter for appellant.

Abbott, Tait, Wotherspoon & Abbott for respondent.

NOTE:—The judgment of the lower Court was also confirmed the same day (June 14), in *Beard & Hart;* and *Allan & Carbray*, but the cases do not require any notice here, being simply questions of fact.

MONTREAL, June 20, 1879.

DORION, C. J., MONK, RAMSAY, TESSIER, and CROSS, JJ.

THE QUEEN v. BISSONETTE.

Indictment—Amendment—Verdict.

RAMSAY, J. The defendant was indicted under section 25, 32 & 33 Vic., cap. 20, for that she, on the 5th day of January, 1879, then being the mistress of a certain girl called Marie, her servant, her maiden name being unknown, of the age of eight years, did unlawfully and maliciously do grievous bodily harm to the said Marie, whereby the health of the said Marie was permanently injured. At the trial it was proved that the child's name was Marie Vincent, and that she was not the servant of the defendant. In face of this evidence, the offence, as