

The District Court Judge refused to state a case; and the motion for leave to appeal was made under secs. 1014 and 1015 of the Code.

The question which the Judge refused to reserve was: "Whether or not a satisfactory accounting or proof of possession of the ore should be asked for and made to the officer before the arrest in order to complete the offence charged."

The motion was heard by MEREDITH, C.J.C.P., RIDDELL, SUTHERLAND, LENNOX, and ROSE, JJ.

A. G. Slaght, for the defendant.

Edward Bayly, K.C., for the Crown.

At the conclusion of the argument, the judgment of the Court was delivered by MEREDITH, C.J.C.P., who said that leave to appeal was asked in respect of a matter that was not apparently raised at the trial at all, and as to which there could not be an appeal.

There is nothing in the statute which requires the officer, before arresting the accused, to ask him to account satisfactorily for the ore in his possession or to prove his right to its possession.

All that is necessary is (in the opinion of the Chief Justice, speaking for himself), that it shall be proved that there is reasonable ground to suspect that the ore has been stolen or has been dealt with contrary to the provisions of para. (b) or (c) of sec. 424 of the Criminal Code.

The defendant had every opportunity for doing all that it is now said he ought to have had an opportunity of doing, before and at the time of his arrest. According to the evidence, he not only failed to give a satisfactory account of the ore, but gave a very unsatisfactory one of the ore he had concealed on his person. He denied that he had it.

There was, throughout the case, reasonable ground for suspicion, reasonable ground for conviction.

The motion should be dismissed.