

Q. B. Div.]

NOTES OF CANADIAN CASES.

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WILLCOCKS V. HOWELLS ET AL.

Libel—Recovery against several—Subsequent action against others—Estoppel.

A recovery in libel against some of several tort feasons and payment of the amount of verdict and all costs without judgment being entered, is a bar to an action against others for the same libel.

REGINA V. RICHARDSON.

Information—Conviction—Police magistrate—Reserving case for Superior Court—Removal by certiorari of proceedings—New trial—Constitutional law.

Held, that a police magistrate cannot reserve a case for the opinion of a Superior Court under Con. Stat. U. C. ch. 112, as he is not within the terms of that Act.

Held, also, that a defendant is not entitled to remove proceedings by *certiorari* to a Superior Court from a police magistrate or a justice of the peace after conviction, or at any time for the purpose of moving for a new trial for the rejection of evidence, or because the conviction is against evidence, the conviction not being before the Court and no motion made to quash it. But, *held*, that even had the conviction in this case been moved to be quashed, and an order *nisi* applied for upon the magistrate and prosecutor for a mandamus to the former to hear further evidence, which he had refused, both motions would have been discharged, the magistrate appearing to have acted to the best of his judgment and not wrongfully, and his decision as to the further evidence involving a matter of discretion with which the Court would not interfere.

The Court declined to hear discussed the question whether the police magistrate in this case, if appointed only by the Ontario Government, was legally and validly appointed, as his appointment should have been by the Dominion, the patent by the Ontario Government only being produced, and it not appearing that no commission by the Dominion had issued to him, nor that any search or inquiry had been made at the proper office is to the fact, the only other evidence as to the appointment besides the mere production of the Ontario patent, being the defendant's affi-

davit stating that the magistrate had no authority or appointment from the Crown or the Governor-General of the Dominion, and that he knew this "of common and notorious report."

Held, also, that the information in this case was not objectionable for not setting out the false pretences of which the defendant was convicted as it was in the form in which an indictment might have been framed, and moreover the objection was met by the 32-33 Vict. ch. 32, sec. 11, and by ch. 31, sec. 67.

IVRY V. KNOX ET AL.

Insolvency—Policy of insurance—Assignment to creditors—Reference—R. S. O. ch. 118, sec. 2.

F. being insolvent and unable to pay his debts in full, with the intent and for the purpose, as admitted by him, of giving them a preference over other preference, assigned to certain creditors two policies of insurance, the assignment having also been obtained by the said creditors to secure the debts due them in preference to the other creditors, and they being well aware of the insolvent state of J.

The jury also found that an alleged pressure brought to bear upon J. by the creditors in question, in order to induce him to make the assignment, was not real, but simulated for the purpose of giving a preference.

Held, that the assignment was null and void under R. S. O. ch. 118, sec. 2, as against the other creditors of J., and must therefore be set aside.

IBBOTSON V. HENRY ET AL.

Replevin—Poundkeeper—Constable—Notice of action.

Replevin will not lie against a poundkeeper. In this case the sheep which were impounded were being grazed with the consent of the owner thereof upon an open common, and were being herded by a boy in charge of them with a view to driving them home, when they were taken possession of by two constables, against the boy's remonstrance, and impounded.

Held, that the sheep were not "running at large" in contravention of a by-law of the