

## Province of Ontario.

## HIGH COURT OF JUSTICE.

Boyd, C., Ferguson J., Robertson, J.]

[Dec. 12, 1900.

KREUTZIGER v. BROX.

*Costs—Division Court jurisdiction—Balance due on contract signed by defendant—Extrinsic evidence.*

In an action in the County Court for \$37.50 balance due on a building contract of \$475, signed by the defendant, where extrinsic evidence was required to shew performance of the contract by the plaintiff and for an open account for \$27.35 in which the defendant was allowed \$25 for defective work and material.

*Held*, that the Division Court had no jurisdiction and that the plaintiff was entitled to his costs on the County Court scale. Judgment of the County Court of Waterloo reversed.

*J. C. Haight*, for plaintiff. *W. M. Reade*, for defendant.

Falconbridge, C.J. and Street J.]

[Dec. 18, 1890.

REGINA v. SPOONER.

*Criminal law—Keeper of house of ill fame—Conviction—Certiorari—Prisoner in custody—Habeas Corpus—Pleading guilty—Summary conviction clauses of Code—Trial on the merits.*

The offence of being a keeper of a house of ill fame is an indictable offence and it may be tried either before a jury in the ordinary way or before a police magistrate under the summary trials clauses or before a justice of the peace under the summary conviction clauses of the Code. On an application to quash a conviction where the prisoner was in custody when the matter came up in certiorari:

*Held*, that a writ of habeas corpus is necessary.

A prisoner was convicted by a police magistrate after pleading guilty to the charge that she did "unlawfully appear the keeper of a house of ill fame," and sentenced to be imprisoned for one year in the Andrew Mercer reformatory.

*Held*, that the conviction might be treated as having been made under the summary conviction clauses of the Code although the sentence exceeded the power of the magistrate, and that such conviction might be supported and the sentence amended under these clauses.

*Held*, also, that when a prisoner charged before a magistrate with appearing the keeper of a house of ill fame had pleaded guilty to such