

*Held*, also, that s. 53 of c. 205, R.S.O. 1897, did not empower the company to disregard the trusts, although it relieved them from seeing to the execution of any trust to which the shares were subject.

The defendant A. K. J. brought into court the arrears due on the collateral mortgage and the plaintiff company accepted the amount in satisfaction of such arrears.

*Held*, that the company could not consolidate the two mortgages as against A. K. J., as she was a purchaser for value without it being shewn that she was aware at the time she purchased the equity of redemption in the lands that any prior mortgage existed against the six shares in the hands of the company

Judgment of MACMAHON, J., reversed.

*Bartlett*, for the appeal. *Luscombe*, contra.

PHILLIPS *v.* MALONE.

Falconbridge, C.J.K.B., Street, J.]

[March 11.

*Writ of summons—Service out of jurisdiction—Option exercised through post office—Contract—Terms—Acceptance—Onus.*

An appeal from the judgment reported ante 3 O.L.R. 47, to a Divisional Court was dismissed with costs.

Per FALCONBRIDGE, C.J. If the agreement of May 1st, 1899, was complete the contract was made in Quebec; but if it was to be completed by the enlargement acts of the parties there was no authority to the plaintiff to use the post office as a means of communication.

Per STREET, J. The plaintiff might have notified the defendants that they desired them to become the purchasers of the goods, but they had no right to prescribe the dates at which the defendants should pay for them.

Their letter was only a proposal to take the goods upon the terms proposed therein requiring an acceptance by the defendant to make it a complete contract the onus of shewing which, was on the plaintiffs and was not satisfied.

Judgment of MEREDITH, C.J.C.P., affirmed.

*Worrell*, K.C., for appeal. *George Kerr, Jr.*, contra.

Meredith, C.J.C.P., MacMahon, J., Lount, J.]

[March 13.

REGINA *v.* MCKINNON.

*Summary conviction.*

The Ontario Summary Convictions Act, R.S.O. c. 90, s. 2, has the effect of incorporating s. 841 of the Criminal Code, and therefore in the case of any offence punishable on summary conviction if no time is specially limited for making any complaint or laying any information under the Act or law relating to the particular case, the complaint shall be made