

Held, that upon the examination for discovery of the president as an officer of the company, he could not be compelled to produce documents or books which had been determined not to be in possession of the company, nor his own books or documents; and a subpoena served upon the president was set aside quoad the production of documents which it called for.

Steel v. Savary, (1891) W.N. 195, and *Snow's Annual Practice*, 1897, p. 650 et seq., referred to.

W. H. Blake, for the defendants. *A. C. McMaster*, for the plaintiff.

Boyd, C.]

MORPHY v. FAWKES.

[Dec. 20, 1897.

Costs—Scale of—Action to set aside fraudulent conveyance—Amount.

An action by simple contract creditors, the amount of whose claim was less than \$200, suing on behalf of themselves and all other creditors, to get judgment and equitable execution against the lands of the debtor conveyed to a third person in alleged fraud of creditors. It appeared that the land was worth more than \$200, and that the claims of execution creditors exceeded \$600 in the aggregate.

Held, that the amount of the subject matter involved exceeded \$200, and the costs should be taxed on the higher scale.

Hall v. Pilz, 11 P. R. 449, *Dominion Bank v. Heffernan*, ib., 504, and *Forrest v. Laycock*, 18 Gr. 611, followed.

B. E. Swayzie, for the defendants. *W. R. Smyth*, for the plaintiffs.

Boyd, C., Ferguson, J.,
Robertson, J. }

REGINA v. CONLIN.

[Dec. 22, 1897.

Criminal law—Larceny from person—Sentence—Police magistrate—Jurisdiction—Consent—Criminal Code, ss. 344, 783, 785, 787.

The charge against the defendant was that he, at the city of Hamilton, did unlawfully steal one purse containing \$3.48 in money.

The defendant consented to be tried and was tried before the police magistrate for the city of Hamilton. He pleaded guilty, and was sentenced to three years' imprisonment.

On the return of a habeas corpus it was contended on behalf of the defendant that there was no power to impose on him for the offence a sentence in excess of that provided for by s. 787 of the Criminal Code, namely, imprisonment for a term not exceeding six months.

The contention on the part of the Crown was that the case did not fall under the provisions of s. 787 or 783, but under s. 344, and that the punishment for it might have been as great as fourteen years' imprisonment.

Held, that the fact that "larceny from the person" is omitted from clause (a) of s. 783, leaving that offence specifically provided against by s. 344, indicates an intention to have the offence punishable under s. 344, which is the section applicable to the case here; but if there was any conflict or difference between s. 783 and s. 344, the specific provisions in s. 344 would prevail over any general provisions in the other section.