

The conviction must, therefore, be quashed, and the questions (in the terms put by the magistrate) answered: (1) that the magistrate had not absolute jurisdiction to try the defendants without their consent; and (2) that they had the right to elect to be tried by a higher Court.

The result is, as in *The Queen v. France*, that, as there was no legal trial, the accused must be tried before the proper tribunal.

MEREDITH, J.A., gave reasons in writing for the same conclusions.

MOSS, C.J.O., GARROW and MACLAREN, J.J.A., concurred.

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