

But, under the provisions of the Married Woman's Property Act, R.S. (1900) c. 112, s. 12, moneys so deposited or invested may be followed by creditors as they might be before the Act.

W. A. Henry, for appellant. H. Mellich, K.C., for respondent.

Weatherbe, C.J., Townshend, J., Graham, E.J.,  
Meagher, J., and Russell, J.]

[Jan. 12.

THE KING v. MCKENZIE.

*Customs—Conviction for violation—Excessive term of imprisonment—Power of Court to reduce—Code, ss. 883, 879—Words “hear and determine.”*

A conviction made by two justices of the peace whereby defendant was convicted of a violation of s. 197 of the Customs Act of Canada, as amended by the Customs Amendment Act of 1888, s. 14, s. 38, imposed a penalty of \$50 for the offence and \$18.20 costs, and in default of payment imprisonment for six months. No term of imprisonment was specified in the special section referred to and the term in such case, under the general provision in the Code was three months.

The conviction having been removed into the Supreme Court by certiorari.

*Held*, 1. The Court in such case has the like powers as the County Court, viz., (1) To hear and determine the charge upon the merits; (2) To reverse or modify the decision; (3) To make such other conviction as the Court thinks just.

2. The Court having the depositions before it and being satisfied from their perusal that the offence had been committed, had power under the Code (ss. 883, 879) to amend the conviction by reducing the term of imprisonment from six months to three and that as so amended the conviction should stand and the motion to set the same aside be dismissed, but without costs.

3. There is nothing in the expression “hear and determine” which limits the investigation to be made by the Court to the hearing of oral evidence, the words being the expressions most commonly used to express the act of the Court in disposing of cases upon evidence already taken.

J. J. Ritchie, K.C., for appellant. W. F. O'Connor, for respondent.