

BOLE, L.J. }  
Local Judge. }

[March 18.]

THE QUEEN v. AH CHUE AND AH LOUIE.

*Summary conviction—Jurisdiction of magistrate.*

This was a motion on behalf of the prisoners for a writ of certiorari, to remove a conviction by a stipendiary magistrate, whereby the said prisoners were found guilty of having unlawfully received stolen goods, knowing the same to have been stolen, the value of the chattels being under ten dollars.

*Held*, that the jurisdiction of the magistrate in British Columbia, in all cases tried summarily under Part 55 of the Criminal Code, is absolute without the consent of the person charged.

Motion dismissed.

*Corbould, Q.C., and Grant*, for application.

*Henderson*, for the Crown.

DAVIE, C.J.]

[March 30.]

PAINCHAUD v. LANDSBERG.

*Assignment for benefit of creditors—Repudiation of trust deed by creditor—Estoppel.*

This was an action to recover \$145.95 alleged to be due upon a bill of exchange accepted by the defendant.

That the balance claimed remained due upon the bill of exchange in question was admitted, but it was contended on behalf of the defendant that the plaintiffs by accepting a payment of forty cents on the dollar, being the equivalent of an amount offered and paid by the defendant to his creditors under an assignment for the benefit of his creditors, had released the demand, although the plaintiffs did not execute the assignment. It appeared that the plaintiffs' solicitor repudiated the trust deed and gave notice that nothing short of the full claim would be accepted; the defendant's assignees then paid him 60 cents on the dollar by a cheque which he afterwards received back.

*Held*, that in view of plaintiffs' repudiation of the deed and their refusal to accept the 60 per cent. offered, the subsequent payment of 40 per cent. could not be treated as such an acceptance as would estop plaintiffs' recovering the balance.

*Gardner v. Kleopfer*, 7 O.R. 613, distinguished.

Judgment for plaintiffs.

*Thornton Fell*, for plaintiffs.

*S. Perry Mills*, for defendant.