shall immediately thereafter report in writing to the Provincial Secretary the fact of his so doing and the cause thereof;" and by 53 Vict., c. 8, s. 9 (B.C.) it is enacted that "Until a County Court judge of Kootenay is appointed, the judge of the County Court of Yale shall act as and perform the duties of the County Court judge of Kootenay, and shall, while so acting, whether sitting in the County Court district of Kootenay or not, have, in respect of all actions, suits, matters, or proceedings being carried on in the County Court of Kootenay, all the powers and authorities that the judge of the County Court of Kootenay, if appointed and acting in the said district, would have possessed in respect of such actions, suits, matters, and proceedings; and for the purpose of this Act, but not further, or otherwise, the several districts as defined by sections 5 and 7 of the County Courts Act, over which the County Court of Yale and the County Court of Kootenay, respectively, have jurisdiction, shall be united."

Held, that these statutes were *intra vires* of the Government of British Columbia under the said section of the B.N.A. Act.

By the Dominion statute, 51 Vict., c. 47, The Speedy Trials Act, jurisdiction is given to "any judge of a County Court," among others, to try certain criminal offences.

Held, that this expression, "Any judge of a County Court," in such Act means any judge having, by force of the Provincial law regulating the constitution and organization of County Courts, jurisdiction in the particular locality in which he may hold a "speedy trial." The statute would not authorize a County Court judge to hold a "speedy trial" beyond the limits of his territorial jurisdiction without authority from the Provincial Legislature to do so.

Held, also, that The Speedy Trials Act is not a statute conferring jurisdiction, but is an exercise of the power of Parliament to regulate criminal procedure.

Emilius Irving, Q.C., for Attorney-General of British Columbia.

Sedgewick, Q.C., for Attorney-General of Canada.

Ontario.] [Dec. 13.

ARCHIBALD *v.* MCLAREN.

Action for malicious prosecution—Reasonable and probable cause—Inference from facts proved—Functions of judge and jury.

In an action for malicious prosecution, the existence or non-existence of reasonable and probable cause is to be decided by the judge and not the jury.

A., staff-inspector of the Toronto police force, laid an information before the police magistrate charging M., a married woman, with the offence of keeping a house of ill-fame. In laying the information, A. acted on a statement made to him by a woman who alleged that she had been a frequenter of the house occupied by M., and stated facts sufficient, if true, to prove the charge. A warrant was issued against M., who was arrested and brought before the magistrate, who, after hearing the evidence, dismissed the charge. M. and her husband then brought an action against A. for malicious prosecution.

The action was tried three times, each trial resulting in a judgment of nonsuit, which was set aside by a Divisional Court and a new trial ordered.