

G. M. Macdonnell, K.C., for the appellant.

J. L. Whiting, K.C., for the defendant Crothers, the respondent.

THE COURT affirmed the judgment below, on the ground that the release given by the plaintiff was valid, and dismissed the appeal with costs.

SEPTEMBER 23RD, 1914.

***REX v. LOUIE CHONG.**

Criminal Law—Indecent Assault—What Constitutes—Criminal Code, sec. 292—Evidence.

Case stated by the Police Magistrate at Sarnia as follows: "The evidence disclosed that the prisoner, a Chinaman, followed the complainant, a respectable girl of fifteen, on her way home, at a late hour of the night, overtook her at a lonely spot, seized hold of her against her will, and offered \$5 to go with him for an immoral purpose, there being neither encouragement nor consent on her part. On the contrary, she made an outcry and threatened him with arrest, whereupon he left her. She ran home and immediately made complaint to her father of what taken place. On these facts, so found by me on the evidence, was I right in finding the prisoner guilty of an indecent assault on a female?"

The case was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, J.J.A., and MIDDLETON, J.

J. H. Moss, K.C., for the prisoner, contended that there cannot be a conviction for an indecent assault unless the act constituting the assault is in itself indecent in its nature.

E. Bayly, K.C., for the Attorney-General.

The judgment of the Court was delivered by MIDDLETON, J.:
— . . . Section 292 of the Criminal Code provides for the punishment of every one who "indecently assaults any female." It appears to me that an act in itself ambiguous may be interpreted by the surrounding circumstances and by words spoken at the time the act is committed. . . . It is in each case a question of fact whether the thing which was done, in the cir-

*To be reported in the Ontario Law Reports.