

magistrate whereby Jordan was convicted on 20th January of an infraction of the Medical Act and fined \$50.00, and in default of payment distress was to be levied and in default of distress he was to be imprisoned for 30 days. On 24th January Jordan deposited with the magistrate the amount of the fine and \$50.00 for security for costs.

Held, 1. A notice of appeal from a summary conviction (Provincial) served upon the convicting magistrate is not invalid because it is not also addressed to and served upon the respondent.

2. It is not a pre-requisite to the right of appeal that the person convicted should have been taken into custody.

Quære, whether service of notice of appeal on respondent's solicitor would not be sufficient in any event.

L. G. McPhillips, K.C., for the summons. *Bowser*, K.C., contra.

Hunter, C.J.]

PIKE v. COPLEY.

[April 15.]

Practice — Special indorsement — Interest till judgment — Amendment — Re-service or re-delivery.

Summons for judgment under Order XIV., in an action for principal and interest due under a covenant in a mortgage. The statement of claim indorsed on the writ in addition to the claim for principal and interest compute to a certain date previous to issue of writ contained a claim for interest on the principal until payment or judgment.

Held, 1. Such claim for interest was not a subject of special indorsement under Order III., r. 6.

2. Where on an application for judgment under Order XIV., it appears that part of the claim is not the subject of special indorsement it is not open to plaintiff to obtain amendment and proceed, but a new summons must be taken out.

3. Where the indorsement of a writ has been amended, re-delivery but not re-service is necessary.

Prior, for the summons. *Barnard*, contra.

Bole, Co.J.]

TAYLOR v. DRAKE.

[April 18.]

Jury — Special — Fees when not serving — R.S.B.C. 1897, c. 107, s. 61.

Action against a sheriff by a special juror for fees.

Held, that a special juror who is summoned for the trial of an action in the Supreme Court is entitled to \$2 for each day's attendance at court although he does not actually serve, and notwithstanding the fact that he lives so near to the court house that he is able to live at home and visit his office occasionally during the day.

Young, for plaintiff. *Pooley*, for defendant.