

it, would be sufficient security for the plaintiff, but it was not to be interded that the defendant should be imprisoned under the section except in consequence of circumstances connected with a claim for an ascertained and liquidated amount, which he could pay at any time after his imprisonment and thereby secure his discharge.

*J. R. Johnstone*, for appellant. *W. J. O'Hearn*, for respondent.

Russell, J.]

THE KING v. REID.

[Sept. 2.

*Criminal law—Summary trial before magistrate—Jurisdiction—Irregularity in trying second case before deciding first.*

Defendant was tried before the stipendiary magistrate at Halifax on two charges, one for assault and the other for pointing firearms at the complainant. Both cases were tried before any decision was given in either of them. The magistrate then proceeded to convict defendant for the assault and acquitted him on the other charge.

It was conceded that the case should be dealt with as if an affidavit had been made by the magistrate to the effect that he had not been influenced in deciding the first case by any evidence taken in the second.

It was also conceded that all the evidence applicable to both cases had been taken on the trial of the first charge and that nothing was added on the second trial that could influence the magistrate in deciding the case first tried.

On motion for a habeas corpus, the offence being clearly proved and no evidence being offered in exculpation,

*Held*, that the irregularity in trying both cases together was not ground for holding the conviction void. The magistrate asked the prisoner whether he consented that the charge should be tried by him or should be sent for trial by jury at the next sittings of the Supreme Court of Criminal Jurisdiction at Halifax, there being nothing in the statute requiring the date of the sittings to be named.

*Held*, that the objection that the requisite question was not put to defendant in order to give the magistrate power to deal summarily with the case must fail.

*O'Hearn*, in support of application. *Knight*, contra.