

the register of medical practitioners. From this decision he appealed to a judge of the Supreme Court.

*Held*, reversing the decision of MORRISON, J., that T. was guilty of unprofessional conduct, his acquittal on the criminal prosecution disposing of the charge of infamously; and that the order of the Medical Council erasing his name from the register should be restored.

*Davis*, K.C., and *A. E. McPhillips*, K.C., for the Council. *Martin*, K.C., for respondent.

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Hunter, C.J.]                      REX v. WILLIAMS.                      [Nov. 10, 1905.

*Criminal law—Habeas corpus—Code, Part LV. ss. 785, 786, 789, 790—Summary trial—Election by accused—Costs—Action.*

Application for writ of habeas corpus and certiorari to quash a conviction by magistrate under Part LV. of the Code relating to summary trials of indictable offences. The affidavit of the prisoner stated that at the trial he was not told that he had a right to be tried by a jury and that he did not plead guilty. The magistrate, in his affidavit, stated that before committing the prisoner to gaol he reduced the charge to writing, read it to prisoner, put to him the question required to s. 786, explained to prisoner that he was not obliged to plead or answer, but if he did so he would be committed for trial in the usual course. That prisoner thereupon consented to summary trial and pleaded guilty.

*Held*, 1. The omission by the magistrate to hold the preliminary enquiry as provided in s. 789, to enable him to decide whether or not the case should be disposed of summarily was fatal.

2. The omission to inform the accused as to the probable time when the first Court of competent jurisdiction would sit, was also fatal. No costs of action.

*Whiteside*, for the Crown. *Bowser*, K.C., and *Edmonds*, for prisoner.

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Duff, J.]                      WALLACE v. FLEWIN.                      [Nov. 27, 1905.

*Water Clauses Consolidation Act, 1897—Appeal from commissioner—Power of Commissioner to amend record.*

Petition, under s. 36 of the Water Clauses Consolidation Act, 1897, for cancellation of a record issued to one Keith in Feb.,