

Held, that such relations rendered it highly inexpedient that the magistrate should try a case against a party standing in such relations to him.

Held, also, following the judgment of Laurence, J., in *R. v. Wallace*, that in order to a conviction under the Canada Temperance Act it must be shewn that the Act is in force and in order to shew this it must be shewn that there were no licenses in force in the county at the date of the proclamation.

J. J. Power, K.C., for defendant. *H. S. McKay*, for prosecutor.

Province of Manitoba.

KING'S BENCH.

Mathers, J.]

WILLIAMS v. BOX.

[May 25.]

Mortgagor and mortgagee—Foreclosure—Real Property Act, R.S.M. 1902, c. 148, ss. 71, 113, 114, 126—Certificate of title.

After a mortgagee of land under the Real Property Act has regularly obtained a final order of foreclosure from the district registrar under sec. 113 of the Act, and has had the same entered in the register as mentioned in sec. 114 and has obtained a certificate of title for the property, the court had no power to open the foreclosure and allow the mortgagor in to redeem, although the circumstances are such that a final order of foreclosure made by the court itself would be set aside and the mortgagor let in to redeem.

Effect of sec. 71 of the Act as to certificates of title discussed.

Bank of New South Wales v. Campbell, 11 A.C. 192, and *Assets Company v. Mere Roihi* (1905), A.C. at p. 202, followed, *Barnes v. Baird*, 15 M.R. 162, not followed.

Sec. 126 of the Act as amended in 1906, c. 75, preserving to the court jurisdiction over "mortgages," cannot be construed so as to destroy the effect of the plain language of ss. 71 and 114.

Robson, K.C., and *Foley*, for plaintiff. *Wilson*, K.C., and *G. W. Baker*, for defendant.