taken away by the statute except on condition of making the affidavit required by the statute. While I consider there is a good deal of force in this contention, the practice in Nova Scotia has been different and Judges here hold the right to look at all the papers on record to see whether the applicant is legally held or not.

I do not intend to express an opinion on many of the points raised by the applicant, as I think the decisions require me to hold the warrant of commitment is invalid because the amount of the costs of conveying the defendant to jail is not fixed in the instrument or endorsed thereon; see R. v. McDonald, 2 Can. C. 504.*

It is true a second warrant was handed me at the argument which seems to be a good warrant, but as I had not been asked to amend the return and as the second warrant does not shew that it is in substitution for or in amendment of the first, I do not consider that I am at liberty to consider it: Re Venot, 6 Can. Cr. C. 209. The defendant will be discharged with the usual protection of the jailer and by the prisoner's consent to the commiting magistrate.

*Editor's Note:—See *In re LeBlanc*, *ante* p. 94, where a similar point was decided.

NOVA SCOTIA.

County Court for District No. 7. May 15th, 1909.

REX v. WILLIAM ENDLER.

Magistrate — Proceedings before — Contempt — Commitment—Jurisdiction—Liquor License Act.

A. D. Gunn, for motion.

D. A. Cameron, contra.

Finlayson, Co. C.J.:—The defendant applies to me under the Act for securing the liberty of the subject for his release from jail, under a warrant of commitment under sec. 186 N. S. L. L. A., for contempt of Court for not answering a question asked by the magistrate. Defendant's counsel contends that the magistrate has no power to commit for contempt.