

Full Court.]

[June 21.

REGINA v. ALWARD.

Justice of the peace—Indian Act—Sale of intoxicating liquors—Information—Several offences—Objection taken at hearing—Summary conviction.

Where an information laid against the defendant under the Indian Act charged that he sold intoxicating liquor to two persons on July 5th, and to two persons on July 8th, and the justices, notwithstanding that the defendant's counsel objected to the information on this ground, proceeded and heard evidence in respect of all the offences so charged, then amended the information by substituting August 8th for July 8th, proceeded and heard evidence in respect of the substituted charge and dismissed it, and convicted the defendant for selling to two persons on July 5th, the conviction was quashed.

Regina v. Hazen, 20 A.R. 633, distinguished.

Per STREET, J.: It was the duty of the justices, when the objection was taken, to have amended the information by striking out one or other of the charges, and to have heard the evidence applicable to the remaining charge only.

Aylesworth, Q.C., for the defendant.

T. W. Howard for the complainant.

MACMAHON, J.]

[May 10.

KENNEDY v. THE PROTESTANT ORPHANS' HOME.

Will—Executors and administrators—Succession duty—55 Vict., c. 6 (O).

Where a testator devised and bequeathed all his real and personal estate to his executors and trustees for the purpose of paying a number of pecuniary legacies, some to personal legatees, and others to charitable associations, and provided that the residue of his estate should be divided *pro rata* among the legatees:

Held, that it was the duty of the executors to deduct the succession duty, payable in respect to the pecuniary legacies, before paying the balance over to the legatees respectively, and they had no right to pay such succession duty out of the residue left after paying the legacies in full.

Armour, Q.C., for the plaintiffs.

Cartwright, Q.C., for the Attorney-General of Ontario.

Huson Murray, Q.C., *W. Mortimer Clark*, Q.C., *A. Hoskin*, Q.C., *J. Reeve*, Q.C., and *Vickers* for other parties interested.

Chancery Division.

Div'l Court.]

[June 1.

JOHNSTON v. THE CITY OF TORONTO.

Municipal corporations—Construction of sewer—Subsequent erection of houses with permission to drain into same—Negligence.

These were two actions which were consolidated, and were brought by the owners of adjoining houses on the north side of King street west to recover