

Province of Nova Scotia.

SUPREME COURT.

Full Court.]

[Jan. 2.]

THE QUEEN v. MAJOR.

N. S. Liquor License Act of 1886—Affinity between magistrate making conviction and prosecutor—Held no disqualification—Certiorari—Acts of 1889, c. 17, s. 7—Objection as to want of affidavit not entertained after issue and return of writ—Defect of form—Conviction not set aside for.

Motion to quash a conviction made by the Stipendiary Magistrate of the city of Halifax, against defendant for a violation of the N. S. Liquor License Act of 1886. The main ground upon which the conviction was attacked was relationship existing between the magistrate making the conviction and the chief inspector of licenses, who was the informant and prosecutor in the proceedings in which the conviction was made, they having married sisters.

Held, that the affinity existing between the magistrate and the inspector, under the circumstances disclosed by the affidavits, did not disqualify the magistrate from hearing the case, or render the conviction void.

"In no case instituted for breach of the Liquor License Act of 1886 . . . shall a writ of certiorari issue unless the party applying therefor shall make affidavit that he did not . . . sell the liquor contrary to law, as charged in the information, etc." Acts of 1889, c. 17, s. 7.

Held, that an objection on the part of the prosecution to the absence of the affidavit was not available after the certiorari had been issued and returned.

Held, also, that objection to the form of the conviction was not sufficient ground for quashing it.

Harrington, Q.C., in support of motion.

D. K. Grant, contra.

Full Court.]

[Jan. 12.]

IMPERIAL BANK OF CANADA v. MOTTON.

Pension to civic official—Held available for payment of debts—Appointment of receiver ordered—Equitable execution—Circumstances under which it may be ordered—N.S. Acts of 1895, c. 43.—Acts 1889, c. 9, ss. 26—29.

Defendant, under the provisions of the N.S. Acts of 1895, c. 43, was entitled to a pension of \$1,000 per annum during his life, to be assessed annually upon the ratepayers of the City of Halifax, and to be paid out of the city revenue.

The pension was given in consideration of services which had been rendered by defendant as Stipendiary Magistrate of the city, on his retirement from that office, when his official connection with the city ceased. Defendant was not liable to be called upon to perform any further duty for the city, either official or personal. There was nothing in the Act under which provision for payment of the pension was made prescribing the time and mode of payment to defendant, nor was there anything to prevent him from assigning it.