

the Division Courts Act the High Court practice was applicable.

Motion refused with costs.

D. L. McCarthy for defendant.

D. Armour for plaintiff.

* * *

THE DIVISIONAL COURT,] [SEPT. 15.
(Q. B. D.)

ALDIS v. CITY OF CHATHAM.

Municipal Corporation—Repair of Highway—Snow and Ice.

Appeal from judgment of the Judge of the County Court of Kent, dismissing the actions, which were brought to recover damages for injuries sustained by reason of infant plaintiff's fall upon a sidewalk in the city of Chatham, alleged to be out of repair. No notice of the accident was given, as required by the proviso added to sec. 531 (1) of the Consolidated Municipal Act, 1892, by 57 Vict., ch. 50, sec. 13, as amended by 59 Vict., ch. 51, sec. 20. The absence of the notice was held by the County Court Judge to be fatal to the actions. The plaintiffs contended that, as the accident was not owing to snow or ice upon the sidewalk, the statute did not apply. Held, that notice of the accident was necessary in all cases coming under sec. 531 (1), and was not confined to cases of snow or ice under the amending proviso, and therefore the actions failed. Per Armour, C. J., that this was the plain meaning of the statute, and the Court of Appeal could not have intended to decide otherwise in *Drennan v. City of Kingston*, 23, A. R., 406. Appeal dismissed with costs.

E. Bell for plaintiffs.

W. Douglas, Q. C., for defendants.

* * *

COURT OF APPEAL.] [SEPT. 17.

REGINA v. MURRAY.

Dies Non—Commitment.

Appeal by defendant from order of MacMahon, J., dismissing application by defendant for his discharge

from custody upon the return of a habeas corpus. Defendant was brought before a Justice of the Peace on the 1st July last, charged with attempting to pick pockets, and was on that day committed for trial. Being brought before the County Court Judge a few days later, he elected to be tried summarily, and was tried by the Judge at his Criminal Court, under the Summary Trials Act, convicted, and sentenced to three months' imprisonment in the Central Prison. The defendant contended that the commitment by the magistrate, being made upon a *dies non juridicus*, was a nullity, and the subsequent proceedings, being founded upon the commitment, were also void. Held, that the County Judge's Criminal Court, being a court of record, the only way of obtaining relief was by writ of error, and the writ of habeas corpus was improvidently issued. Appeal dismissed.

D. O'Connell (Peterborough) for defendant.

A. M. Dymond for the Crown.

* * *

DIVISIONAL COURT,] [SEPT. 17.
Q. B. D.]

POWERS v. CARMAN.

Newspaper Libel—Security for Costs.

Under 57 Vict. (Ont.), ch. 27, s. 7, there is no appeal beyond a Judge in Chamber on an application for security for costs in a newspaper libel action.

Clute, Q. C., for defendant.

J. H. Moss for plaintiff.

* * *

DIVISIONAL COURT,] [SEPT. 17.
Q. B. D.]

REGINA v. WILLIAMS.

Criminal Case—Authority of Solicitor—New Trial.

Defendant was charged with manslaughter and acquitted; but the Crown obtained a reserved case upon the question as to whether the defendant's depositions at the Coroner's