

Toronto is equally clear. The only restriction upon his acting in the City of Toronto is that he could not try a case originating in the city except in the illness, absence or at the request of the Police Magistrate for the City. Mr. DuVernet was forced to admit that his objection, to be good, must go to both the institution of the proceedings and the trial of the same. The case of *Reg. v. Riley* says that a justice of the peace can deal with a County case sitting in the City. Sec. 27 of the Police Magistrates' Act creates every Police Magistrate ex officio a Justice of the Peace for the County. The County includes the City when united judicially. There is, therefore, no limitation as to place within the County as applied to a Police Magistrate acting in his capacity as a Justice of the Peace with the power of two justices of the peace. There is only limitation as to case, and this is governed by s. 7 of the Police Magistrates' Act, which enacts that no justice of the peace shall admit to bail or discharge the prisoner . . . or otherwise act in any case for a town or city where there is a police magistrate . . . except in the case of the illness, absence or at the request of the police magistrate. I cannot, therefore, sustain the preliminary objection as to Mr. Ellis' lack of jurisdiction.

After the preliminary objection was disposed of, the learned judge went into the merits of the appeal in reference to the question whether the beer was or was not an intoxicating liquor, and he held in accordance with his judgment in *Reg. v. Wotten*, 34 C.L.J. 746, that it was so. In the present case the evidence shewed that the liquor in question was diluted lager beer, and that on analysis it yielded an average strength of 2.05 per cent. of absolute alcohol.

DIVISION COURTS.

8TH DIVISION COURT, NORTHUMBERLAND AND DURHAM.

Ketchum, Co. J.] IN RE BONTÉ v. CHAPMAN. [March 2.
Master and servant Act, R.S.O., c. 157—Appeal—Magistrate's power to allow witness fees as part of the costs—A Division Court no power to allow costs of the appeal.

KETCHUM, Co. J.—This is a summary proceeding to enforce payment of a debt in which the Legislature has seen fit to give jurisdiction to a justice of the peace, and he has, by s. 11, power to direct the payment of wages due, not exceeding the sum of \$40, with costs. There is nothing that prohibits him from awarding witness fees as part of the costs; the Act R.S.O., c. 95, has not that effect, as it is confined, in its application, to criminal matters. He may allow witnesses fees as part of the costs by analogy to the powers of a judge under the Division Courts Act, in which Act witness