

run accordingly, one of the plaintiffs assisting and the other assenting.

*Held*, following *Woodbury v. Gates*, 2 Thom. 255; *Davison v. Kinsman*, James R. 1, and *Reed v. Smith*, 1 N.S.D. 262, that the line so run possessed all the requisites of a conventional line and settled the dispute as to trespasses complained of by plaintiffs.

*Chisholm and A. McDonald*, for plaintiffs. *Gregory, K.C.*, for defendant.

Russell, J.]

THE KING v. LORRIMER.

[June 22.

*Canada Temperance Act—Proceedings prior to issue of warrant—Justice—Grounds of disqualification—Proof that Act is in force necessary to jurisdiction.*

Where an information is laid charging a sale of intoxicating liquors in violation of the second part of the Canada Temperance Act the justice must hear the allegations of the informant and pass upon their sufficiency before issuing his warrant.

In the absence of a compliance with such requirement the magistrate has no jurisdiction of the person of the defendant and the conviction is void. *Ex parte Bryce*, 24 N.B.R. 347, and *Ex parte Grundy*, 10 C.C.C., followed.

Where however it is not affirmatively shewn that the statute was not complied with.

*Quare*, whether the court may not properly assume that the magistrate satisfied himself, before issuing his warrant, that there were sufficient grounds.

Defendant was brought before the stipendiary magistrate of the town of Westville on the 5th of May, 1909, and convicted of a violation of the Act. A difference arose as to the amount of fees properly chargeable against him and a tender was made of the amount claimed by defendant's counsel to be the maximum and refused. Defendant went to jail and afterwards paid the amount under protest. The following day another information was laid against him before the same magistrate, and while it was pending notice of action at the suit of defendant was served upon the magistrate for causes of action arising out of the previous conviction and imprisonment, the action being brought in good faith and in the genuine belief on the part of defendant that he had a good cause for action. Without deciding the point whether the relations between defendant and the magistrate constituted a ground for disqualification,