

and the magistrate had no power to impose a penalty of imprisonment for longer than six months.

The provisions of the Code respecting amendments to summary convictions do not apply to summary trials; and the provisions of s. 800 do not apply where the same infirmity is found in the conviction as in the commitment.

The conviction and commitment were bad for imposing an unauthorized penalty; the defendant was entitled to be discharged upon habeas corpus; and an order should not be made under s. 752 for his further detention.

*Du Vernet*, for defendant. *J. R. Cartwright*, Q.C., and *J. W. Curry*, Q.C., for the Crown.

Boyd, C.]

IN RE SOLICITORS.

[Nov. 2.

*Solicitor—Bills of costs—Taxation—Payment—Connected charges—Agreement—Unsigned bills—Delay—Overcharges.*

A firm of solicitors for about eight years acted for an estate in the collection of moneys and realization of securities relating to a block of land sold by the testator. During this period the solicitors from time to time rendered statements of account to the executors and paid them cheques for balances in their hands as shewn by such statements, and also rendered detailed bills of their costs for their services, in respect of different actions and proceedings taken, though not in all cases, such bills being paid by the retention by the solicitors, without objection on the part of the executors, of part of the moneys collected. Two or three of the larger bills were moderated by a taxing officer shortly after they were rendered. Upon an application by executors for taxation of all the bills after the eight years,

*Held*, that this could not be regarded as one continuous dealing keeping the right to tax in suspense till the collection or exhaustion of all the securities.

*Held*, also, that there was no agreement between the solicitors that the right to tax generally should remain open to the executors.

As to certain of the bills of costs said not to have been actually signed by the solicitors,

*Held*, that they were substantially sufficient, and, after being paid out of the funds collected, with the knowledge and sanction of the executors, they could not be treated as open to taxation, after years of delay and no specific overcharges being indicated.

*In re Sutton and Elliott*, 11 Q.B.D. 377, followed.

*J. H. Moss*, for executors. *W. E. Middleton*, for solicitors.