ment is assailed on several grounds, but more especially because it is not averred that the setting of the fire injured or destroyed the lumber. A party charged with a statutory offence has a right to see that every ingredient of the offence is stated. No matter how grievous the charge, no one should be held to answer an indictment which sets forth no crime. It has been urged that the accused should be put upon his trial, and be left his recourse in error; but this would be most unfair, and where there is a material irregularity, the Court will even stop the trial after evidence has been put in. The charge cannot evidently be sustained under sec. 11. It was suggested by the Crown that it might be upheld under sec. 12, and this shows the unfairness of the pretensions of the prosecution. How can the accused know what to plead when the accuser is ignorant or doubtful of the charge he intends to prefer? No *attempt* is set out, so that sec. 12 cannot be relied on. The argument that the prisoner may be held under sec. 21 is plausible. The perusal of that section, however, shows that it cannot be held to apply to manufactured lumber. "Wood" does not mean "manufactured lumber" any more than "wool" means "cloth." There is a special section enacted to cover crimes committed upon the manufactured article; why then should sec. 21 be held to apply to the raw material and to the manufactured article likewise? Another point raised by the defence is equally decisive. If sec. 21 could avail, the indictment should have used the words of the statute. A pile of boards may or may not be a pile of boards of wood. An innuendo cannot extend the meaning of the terms which precede it;—2 Saunders on Pleading, 922; Archbold, 830. The forms given at the end of the Procedure Act of 1869 are most misleading, and their defects are well shown by Judge Taschereau in his second volume. The indictment is therefore quashed.

The prisoner was discharged upon motion to that effect.

The indictments against the three accessories were likewise quashed without argument, and they were discharged.

J. R. Fleming for the Crown.

A. Gordon for the private prosecution.

John Aylen, *J. P. Foran* } for the prisoners.

SUPERIOR COURT.

[In Chambers.]

MONTREAL, Aug. 12, 1880.

Ex parte JOSEPH SENECAL, petitioner for writ of Habeas Corpus.

Magistrate—Erroneous designation.

The petitioner had been imprisoned under a conviction of date 17th July, 1880, for assaulting a constable in the performance of his duty. He was brought before Thomas S. Judah, Esquire, described in the complaint and conviction as Magistrate of Police for the District of Montreal.

T. C. Delorimier, for petitioner, cited 32-33 Vic. (Canada), cap. 32, s.s. 1, 2, 17.

Mousseau, Q.C., for the Crown, cited 33 Vic. (Quebec), c. 12, and admitted that there had been an error in the description of the magistrate.

TORRANCE, J. There is admitted to have been a mistake in the designation given the magistrate in the information and conviction. He was appointed under 33 Vic., c. 12 (Quebec), and undoubtedly had jurisdiction to try the offence. But he was not a police magistrate for Montreal. He was a justice of the peace, with the enlarged jurisdiction given by the Quebec statute. The Canada statute, s. 30, says that no conviction, sentence or proceeding under this Act shall be quashed for want of form. Is the question here merely one of want of form? It is an elementary rule that jurisdiction must always appear on the face of proceedings before magistrates;—Paley, Convictions, p. 182, and foot note (z). Here the only jurisdiction shown on the face of the proceedings is the jurisdiction of the police magistrate, and the sitting magistrate was not a police magistrate. My conclusion is to order the writ to issue.

The prisoner was then brought up before the Judge and discharged.

Mousseau, Q.C., for the Crown.

Delorimier & Co. for the prisoner.

COURT OF REVIEW.

MONTREAL, June 25, 1872.*

MACKAY, TORRANCE, BEAUDRY, JJ.

SABINE v. KRANS.

An omission in a deed by error or oversight does not constitute a ground for an action in improbation.

* The note of this case (not previously reported) is inserted here, as the decision has been cited in a case pending.