

# The Ontario Weekly Notes

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## HIGH COURT DIVISION.

MEREDITH, C.J.C.P.

OCTOBER 3RD, 1913.

### RE SCHOFIELD AND CITY OF TORONTO.

*Criminal Law—Nuisance—Motion for Leave to Prefer an Indictment against a Municipal Corporation—Application to Judge at Assizes—Jurisdiction of Magistrate—Preliminary Inquiry—Absence of Objection to—Provisions of Criminal Code.*

Application by Richard Schofield and others, residents of the city of Toronto in the vicinity of Ashbridge's Bay, for leave to prefer an indictment for a nuisance against the Corporation of the City of Toronto.

The application was made before MEREDITH, C.J.C.P., presiding at the Toronto Autumn sittings of the Court for the trial of civil and criminal cases.

W. E. Raney, K.C., for the applicants. Sections 221 to 223 of the Criminal Code deal with common nuisances. Section 222 provides that "every one is guilty of an indictable offence and liable to one year's imprisonment," etc. Sections 916 to 920 provide for "Proceedings in Case of Corporations." The only proceeding indicated in these sections is by indictment. The law is well settled that where an offence is indictable, and in respect of it there could not be a summary conviction against any individual under Part XV. or a summary trial under Part XVI. of the Code, there is no jurisdiction in a magistrate to hold a preliminary inquiry in a proceeding against a corporation. In *Re Chapman and City of London* (1890), 19 O.R. 33, *Regina v. T. Eaton Co. Limited* (1898), 29 O.R. 591, and *Regina v. City of London* (1900), 32 O.R. 326, prohibition was granted