

*Held*, that the evidence of search coupled with the provisions of the Act R.S. (1900) c. 100, s. 165, sub-s. 2, was ample to justify the conviction unless displaced. That defendant had to overcome the presumption raised against him and to explain the circumstances to the satisfaction of the judge, and, having failed to do so, the judge could properly find as he did and the Court would not disturb the conviction.

*Bigelow*, for appellant. *S. D. McLellan*, for respondent.

Full Court.]

THE KING v. CRAIG.

[Dec. 26, 1905.

*Intoxicating liquors—Sale at retail without license—Conviction in absence of defendant—Reasonableness of service.*

Information was laid before the Stipendiary Magistrate for Truro charging defendant with having sold liquor at retail without license, defendant having been previously convicted of first and second offences of the same nature. A summons was issued on June 20, 1905, requiring defendant to appear at the Court room at 10 o'clock on the following morning to answer the charge against him, and to be further dealt with. A copy of the summons was served by a constable on the defendant personally on the same day on which the summons was issued and defendant failing to appear was convicted in his absence. The conviction was attacked on the ground that defendant was not served until the night of the day on which the summons was issued, and that he had no time to consult counsel.

*Held*, that the question of the reasonableness of the service was one for the justice under all the circumstances of the case, and that on the facts stated there was evidence to justify him in coming to the conclusion that a reasonable time had elapsed between the time of service and the time fixed for the trial, and in proceeding with the case in defendant's absence.

Per RUSSELL, J.:—That if defendant required further time it was his duty to have appeared and to have made his application to the justice, and that it was not permissible for him to ignore the summons and afterwards ask the Court to quash the conviction.

*Bigelow*, in support of motion. *S. D. McLellan*, contra.