

ates the summary conviction provisions of the Code, and under the Liquor License Act, all costs, whether of conviction, commitment, or conveying the defendant to prison, are in the discretion of the convicting Justices; and, therefore, an omission to exercise that discretion as against the defendant, as to either or all of those items of costs, is no objection to a conviction otherwise valid.

The objection as to imprisonment at hard labour in default of payment is answered by what I have already said, and by the express language of sec. 72 of the Liquor License Act, and by 8 Edw. VII. ch. 33, sec. 1, sub-sec. 2, which amends sec. 7 of the Interpretation Act, by adding: "Where power to impose imprisonment is conferred by any Act it shall authorise the imposing of imprisonment with hard labour."

The motion is, therefore, dismissed with costs.

---

MILLER v. KAUFMAN—DIVISIONAL COURT—JULY 25.

*Master and Servant—Injury to and Death of Servant—Dangerous Machine—Guard—Negligence—Carelessness of Deceased—Findings of Jury—Inconsistency—New Trial.*]—Appeal by the plaintiff from the judgment of LATCHFORD, J., ante 925, after a trial by jury, dismissing the action. The Divisional Court (FALCONBRIDGE, C.J.K.B., BRITTON and SUTHERLAND, JJ.) directed a new trial. The Chief Justice said that he agreed with the remark of the trial Judge that "the result (of the jury's findings) is a miscarriage, or at least a postponement of justice." The answers of the jury were inconsistent and insensible, and were not made clearer by the attempted explanation. There had been a mistrial, and there must be a new trial. What had taken place was not the fault of the trial Judge, nor of the parties. Therefore, all costs to date should be costs in the cause to the successful party. J. G. Gauld, K.C., for the plaintiffs. E. E. A. DuVernet, K.C., for the defendant.

---

HORTON v. MACLEAN—SUTHERLAND, J., IN CHAMBERS—JULY 26.

*Discovery—Examination of Defendant—Relevant Questions—Duty of Defendant to Inform himself—Further Examination.*]—Appeal by the defendant from an order of the Master in Chambers of the 7th April, 1911, requiring the defendant to