

[Q. B. Div.]

NOTES OF CANADIAN CASES.

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Semble, the warrant issued after the dismissal of the appeal by the sessions, and which the original conviction in directing imprisonment for six months, without allowing for the two days, was not open to objection.

Galt, J.]

REGINA V. RAMSAY.

Can. Temp. Act, 1878—Secs. 105, 111—Jurisdiction—Certiorari—Appeal to Q. S.—Conviction quashed.

Where a defendant submits to examination before a magistrate it is too late afterwards to object to its propriety.

In cases where a magistrate has jurisdiction, *certiorari* is absolutely taken away; but an appeal to the quarter sessions still exists which, however, is also by sec. 111 of the Canada Temperance Act, 1878, taken away where the conviction is before a stipendiary magistrate.

It is imperative under sec. 105 of the above act, that an information thereunder be laid before two justices, and that they both be named in the summons to the defendant. Where, therefore, a summons stated that an information had been laid only before the justice who signed it, and yet called upon the defendant to appear before another named justice as well as himself,

Held, that the justices had no jurisdiction, and that the defendant's appearing before them did not confer it. A conviction was therefore quashed.

Bell, for motion.*Howson*, contra.

O'Connor, J.]

REGINA V. ELI.

Quashing conviction—Case tried same day as warrant served.

Defendant was steward of a "social club," in Walkerton. The members were elected by ballot, and on paying an entrance fee of \$1, and a subscription of 25 cents per month, were entitled to use the club rooms, and buy from the steward spirituous liquors. The members were not responsible for goods ordered, or for any general expenses. An information was laid against defendant on 10th September, 1885, for an offence against the second part of the Canada Temperance Act, 1878, and on the 21st September, 1885, he was, about 3 p.m., served with a summons to appear at 8.30 a.m. next day before two magistrates. On the 22nd day of

September, informations were in two other cases laid against him for similar offences, and he was in each, at 8.15 a.m., served with a summons to appear before the magistrates at 9 a.m. that day. When the magistrates met, the first case was partially gone into, and before it was closed the prosecutor asked the magistrates to take up the second and third cases. The defendant stated that he had not understood what the summonses meant, and by advice of counsel refused to plead. The magistrates entered a plea in each case of not guilty, and went on with both cases. The evidence in both showed that the offences charged in each case occurred on dates different from those laid in the information. The magistrates amended the dates in the informations. The defendant and his counsel were in Court all the time, awaiting completion of the evidence in the first, but refused in any way to plead or take part in the second and third cases, or to ask adjournment thereof. The magistrates, after taking all the evidence therein, at request of defendant, adjourned the first case, and in the second and third cases convicted the defendant of the offences as charged in the amended informations. It was shown by affidavits that the magistrates were willing in these cases, had defendant pleaded, to adjourn after taking the evidence of the witnesses present. There were affidavits showing that the magistrates had been before the Scott Act interested in promoting temperance.

The convictions were quashed, with costs against complainant, on the ground that the proceedings were contrary to natural justice, as the summonses were served almost immediately before the sittings of the Court which defendant was called to attend.

Regina v. Klemm, 10 O. R. 143, was followed as to the charge of interest.

H. J. Scott, Q.C., for motion.*Alan Cassels*, contra.

O'Connor, J.]

REGINA V. REED.

Mun. Corps.—By-law—Anticipating legislation—Conviction quashed.

A conviction for infraction of a by-law was quashed, the by-law having been passed 27th March, to take effect 3rd April next, in expectation of 45 Vict. ch. 24 (O.), passed 10th March, to go into operation and April following.

Dickson, Q.C., for motion.*G. Henderson*, Q.C., contra.