

En Banc.] KING v. MARSH. [April 24.

*Canada Temperance Act, sec. 115, sub-s. (d)—Third offence—Committed prior to conviction for second offence.*

Sub-s. (d) of 115 of Canada Temperance Act does not alter the common law to the extent of making valid a conviction for a third offence, committed "after information laid for a first offence," but prior to conviction for the second offence, McLEOD, J., dissenting.

Conviction quashed.

R. W. McLellan, in support of rule. Phinney, K.C., contra.

En Banc.] KING v. WEDDERBURN. [April 24.

*Appeal from summary conviction—Crim. Code, s. 880—"Personally" omitted from recognition—Costs.*

The omission of the word "personally" from the condition of the recognizance required by Crim. Code, s. 880 with respect to appeals from summary convictions is fatal to its validity.

The County Court judge, though having no jurisdiction to try such a case, would have power to award costs on the dismissal of the appeal.

Rule discharged to quash County Court Judge's order dismissing appeal.

Hazen, K.C., in support of rule. Tedd, K.C., contra.

## Province of British Columbia.

### SUPREME COURT.

Full Court.] ROBITAILLE v. MASON AND YOUNG. [Jan. 27.

*Malicious prosecution—County Courts Act, s. 23, 31—Waiver of objection to jurisdiction—False imprisonment.*

Plaintiff took possession of Mason's float which he found adrift on a lake. Mason, although aware that plaintiff claimed a lien for salvage, made no move towards recovering the float until after three weeks when he in company with a constable demanded it, and on plaintiff refusing to give it up without compensation he was arrested without a warrant and taken to gaol, and subsequently an information laid against him under s. 338 of Crim. Code for taking and holding timber found adrift, was dismissed. Mason provided the tug which got the float and carried plaintiff to gaol and accompanied the constable with the plaintiff to the gaol.

Held, on the facts, affirming FORIN, Co. J., that the arrest was the joint act of Mason and the constable, and that Mason was therefore liable for damages for false imprisonment.