

THE

Eastern Law Reporter.

VOL. IX. TORONTO, DECEMBER 1, 1910. No. 2

NOVA SCOTIA.

COUNTY COURT FOR DISTRICT No. 5. SEPT. 24TH, 1910.

REX v. JOHNSON.

Canada Temperance Act—Summons—Irregularity—Dismissal of Information—New Summons for Same Offence—Conviction—Validity.

Vernon, for defendant, appellant.

Graham, K.C., for the Crown.

PATTERSON, Co.C.J.:—This is an appeal by the defendant from a conviction made against him by two Justices of the Peace, in proceedings under the Canada Temperance Act. The prosecution was for keeping liquor for sale between certain dates, and the offence was proved beyond a shadow of doubt. But it appears from the evidence that the same justices, perhaps upon the same information, certainly upon information for a keeping for sale between the same dates, had formerly issued a summons returnable at Westville on a particular day. On that day they met at the appointed place and hour, the defendant appeared and pleaded not guilty; and after hearing some evidence they “dismissed the case.” They explain now that they did this because the summons had been “tampered with.” meaning that some interlineations had been made in it after it left their hands. A new summons was then issued returnable at a subsequent day at New Glasgow. Whether this summons was issued in consequence of a new information then laid, or of the old information then re-sworn, or whether neither of these things was done and the new summons was issued without information, or upon the old one, does not appear. On