

now claims as his (Forster), that effect should not be given to an objection based on the omission of the letter "r" in his name in the conviction and other proceedings, especially as he appeared by counsel before the County Court Judge, and defended, under the name in which he was prosecuted. There was a sufficient sentence and adjudication, although the particular language which might have been necessary in a conviction by a magistrate was not made use of in the record of the proceedings. There is no reason why the sentence of imprisonment should not stand good, even if the adjudication of the fine were objectionable. This would not be so in a conviction before a magistrate, because of a long established rule to that effect, but it is so in the order of a magistrate; see Paley on Convictions, 7th ed., 170. The Court is not, in this case bound by decisions relating to magistrates' convictions, but is at liberty to apply a reasonable interpretation to the proceedings. See *Lindsay v. Leigh*, 11 Q. B. 456. But, as there was no authority in the Judge below to issue the commitment under which the prisoner is held, after the proceedings had been removed by certiorari, the defendant should be discharged. Order accordingly. No costs.

BRITTON, J.

APRIL 9TH, 1903.

TRIAL.

CAREW v. GRAND TRUNK R. W. CO.

*Railway—Farm Crossing—Duty to Provide—Railway Act of 1888—Retroactivity—Special Statutes.*

Plaintiff was the owner of the south half of lot 15 in the 3rd concession of the township of Emily, except the right of way of defendants, who had purchased land for their road in 1882. Plaintiff, owning the land on both sides of the railway, brought this action to compel defendants to construct a crossing so that plaintiff can properly work his farm.

R. Ruddy, Millbrook, for plaintiff.

W. R. Riddell, K. C., for defendants.

BRITTON, J., held that the undisputed material facts brought the case within *Ontario Lands and Oil Co. v. Canada Southern R. W. Co.*, 1 O.L.R. 215, and there was nothing in the different statutes affecting the Midland Railway Company, by whom the portion of defendants' road in question was constructed, to render that decision inapplicable. Plaintiff could not merely as proprietor of lands along the railway invoke the aid of the original sec. 13, made part of the Act of incorporation of the Peterborough and Port Hope Railway Company, to compel defendants to construct a farm