

The trial under the respective informations did not come on until the 8th day of January, 1908, and at the trial objection was taken that the information did not disclose any offence under the provisions of the Liquor License Act.

The prosecution, conceding the soundness of the objection, asked leave to amend, and did amend the information by charging that the defendant on the third day of December did sell, give, furnish or allow or permit liquor to be furnished or given to the said Graham and Hodgins respectively—persons “apparently to the knowledge of defendant under the age of 21 years”—without furnishing the proper requisition of a medical practitioner.

It was objected that such amendment could not then be made, because it was practically charging a new offence, and that the time limit within which an information for the new offence so charged had expired. The amendment, however, was allowed by the justices, and defendant was convicted on both charges.

It is quite clear that at the time the information was amended the time limit had expired within which an information could have been laid for the offence charged was alleged to have taken place.

While it is quite clear that under the provisions of the Liquor License Act the information can be amended not only as to matter of form, but as to matter of substance, charging an absolutely new offence, as sought to be charged by the amendment, such amendment must be made within the time limited by the statute when an original information might have been laid charging the offence as sought to be charged by the amendment. If the time for laying such new information had not expired when the amendment was made, then the amendment might properly have been made, and defendant, if the facts were warranted, might have been convicted; and even when the amendment was made, if the scope of the amendment went only as to matter of form and detail in the information charging the same offence, but dealing with only matters of detail, then the amendment might have been made; but as the amendment charges an entirely new offence I am of opinion it could not at the time it was made be properly permitted, and no conviction could follow upon the amended information.

When the objection to the information was taken, if no amendment had been sought the prosecution should have been dismissed by the magistrates on the ground that no offence under the statute was charged. If at that time a new information