

it is only when the allegations of the complainant do not convince the Justice that a summons should issue, that there is any need of witnesses.

I would follow that decision, the facts being, as I understand, much the same, except that Mr. Mackenzie, for the defendant, says that the information in that case was not, as in this case, upon "information and belief." I do not think that fact should affect the principle of the decision, because the information in this case follows substantially the form of the information authorised by secs. 95 and 103 of the Liquor License Act, and which, under sec. 95, "may be made without any oath or affirmation to the truth thereof." A similar provision is contained in sec. 710, sub-sec. 2, of the Criminal Code.

The suggestion that a conviction is bad because, in case of the accused, it omits something which the Justices might in their discretion have imposed upon him, while novel in the extreme, is, I think, ineffective.

In the first place, it is to be observed that the conviction follows substantially the language of sec. 72, which, after providing for the penalty and costs of conviction, says: "And in default of payment thereof he shall be imprisoned in the county gaol of the county in which the offences was committed, for a period of not less than three months, and be kept at hard labour, in the discretion of the convicting magistrate."

If this section stood alone, there would, of course, be no power in the Justice to impose costs of conveying to prison; but sec. 89 provides that in a case like this the Justice or Justices "may by the conviction adjudge that the defendant be imprisoned, unless the sum or sums adjudged to be paid, and also the costs and charges of the commitment and conveyance of the defendant to prison are sooner paid." Further similar enabling provisions with reference to imposing payment of costs for conveying a defendant to prison are found in sec. 739 of the Code, as amended by 8 & 9 Edw. VII. ch. 9, and also in sec. 7 of the Ontario Summary Convictions Act, 10 Edw. VII. ch. 37.

In my opinion—so far as respects the power of the Justices under sec. 72—sec. 89 of the Liquor License Act and the other sections above mentioned simply enlarge their discretionary powers in the matter of costs, but do not make it necessary to a valid conviction that they should exercise a discretion by requiring the defendant to pay the costs of conveying him to prison.

I think it is too plain to admit of serious argument that both under the Ontario Summary Convictions Act, which incorpor-