

should be granted. The section further provides that their proceedings are to be as nearly as may be in the manner directed by any Act now or hereafter to be in force relating to the duties of justices of the peace in relation to summary convictions and orders.

If ss. 91 and 92 do not, as one learned judge at all events seems to have thought, apply to the action of the license commissioners in granting a permission to transfer and there be no appeal given by s. 91 to the county judge and I think there is reasonable ground for the argument that there is no appeal at all. If the legislature has expressly given, with regard to some of the matters which the license commissioners are called upon to deal with, a right of appeal, and has not so given it in regard to others, it seems to me that on well understood principles, the proper construction to be placed upon the statute is that no right of appeal was intended to be given in the latter cases, but that these matters were left to the absolute discretion of the license commissioners. However, as I have said, I do not rest my judgment upon the question of jurisdiction. I determine it upon the other grounds.

The action failing must be dismissed, and I see no reason why it should not be dismissed with costs.

This judgment was affirmed by a Divisional Court (Armour, C.J., Falconbridge and Street, JJ.), on June 5, 1900. Leave to appeal was refused by the Court of Appeal on June 29, 1900.

Province of Nova Scotia.

SUPREME COURT.

Russell, J.]

THE KING v. JORDAN.

[June 14.

Canada Temperance Act—Conviction for second offence—Failure to allege prior conviction.

The informant who is proceeding as for a second offence against the Canada Temperance Act, must in his information allege a previous conviction and not merely a previous offence or a previous information for an offence. A conviction made in the absence of such allegation is bad and the discharge of the person convicted will be ordered.

Jenks, Deputy Attorney-General, for the Crown. *Power*, K.C., for defendant.