

Such an order, obtained on the application of an executor, was varied by giving the conduct of the reference to two of the legatees, where the Judge had not been referred to the course of practice, and so had exercised no discretion to prevent the interference of the Court.

The order should not have been made without notice to the legatees, who were named as parties defendant in the proceedings taken by the executor.

W. H. Blake, for the executor.

L. G. McCarthy, for the legatees.

MEREDITH, C. J. }
ROSE, J. }

[Jan. 11.

REGINA v. COULSON.

Justice of the peace—Summary conviction—Certiorari—Evidence—Motion to quash—Practising medicine—Ontario Medical Act—R.S.O., c. 148, s. 45.

When a summary conviction is removed by certiorari and a motion made to quash it, it is the duty of the Court to look at the evidence taken by the magistrate, even where the conviction is valid on its face, to see if there is any evidence whatever showing an offence, and, if there is none, to quash the conviction as made without jurisdiction; but if there is any evidence at all, it is not the province of the Court to review it as upon an appeal.

Regina v. Coulson, 24 O. R. 246, not followed.

The defendant was convicted under the Ontario Medical Act, R.S.O., c. 148, s. 45, for practising medicine for hire. The evidence showed that when the complainant went to the defendant he told him his symptoms; that he did not know what was the matter with himself; that he left it to the defendant to choose the medicine, after learning the symptoms; and that, upon the advice of the defendant, he took his medicine, went under a course of treatment extending over some months, and paid the price agreed upon.

Held, that there was evidence to support the conviction.

Regina v. Coulson, 24 O.R. 246, distinguished.

Regina v. Howarth, ib. 561, followed.

Aylesworth, Q.C., for the defendant.

L. G. McCarthy, for the informant.

MEREDITH, C. J. }
ROSE, J. }

Jan. 11.

REGINA v. CRANDELL.

Justice of the peace—Summary conviction—Permitting deer hounds to run at large—56 Vict., c. 49, s. 1, s-s. 2—Scienter—Evidence—Amendment—Criminal Code, s. 889—Quashing conviction—Costs—Protection.

By 56 Vict., c. 49, s. 1, s s. 2, it is provided that "no owner of any hound or other dog, known by the owner to be accustomed to pursue deer, shall permit any such hound or other dog to run at large in any locality where deer are usually found."

The defendant was summarily convicted for allowing "his deer hounds to run at large in a locality where deer are usually found, contrary to the statute," etc.