

responsibility which all persons incur who set out fire on the prairie and do not thoroughly extinguish the same. The defendant, who lived in a thickly settled neighbourhood, at a time of the year when everything was very dry, and there were a great many grain stacks on adjoining farms, when little fall ploughing had been done, and on a very windy day, sent his boy to burn a number of heaps of straw on his own property, and it was proved that the plaintiff's grain stacks had been destroyed by a fire which started from the burning heaps of straw. The defendant had taken no steps to make sure that the fire he set out had been extinguished, and trusted that the fire was out, without going or sending any one to see.

*Held*, that the defendant was responsible for the damages so caused to the plaintiff.

Appeal from County Court of Morden dismissed with costs.

*Ewart*, Q.C., and *Martin*, for plaintiff.

*Munson*, Q.C., for defendant.

KILLAM, J.]

[March 5.]

THE QUEEN v. EGAN.

*Criminal Code—Summary trials—Appeal from magistrate's decision.*

In this case the simple point decided was that section 808 of the Criminal Code, although badly expressed and wrongly punctuated, prevents an appeal from the decision of a Police Magistrate on a summary trial under Part LV. of the Code, because it must be read as if it was framed thus :

"The provisions of this Act relating to preliminary inquiries before justices, except as mentioned in secs. 804 and 805, and the provisions of Part LVIII., shall not apply to any proceedings under this part."

Hence secs. 879-884, being in Part LVIII., which are the only clauses providing for any appeal from a conviction by a magistrate, do not apply in case of a conviction on a summary trial under Part LV.

*MacLean*, for the Crown.

*Ashbaugh*, for the prisoner.

KILLAM, J.]

[March 5.]

MAXWELL v. M. AND N. W. RAILWAY CO.

*Practice—Production of documents—Receiver—Railway Company.*

This was an appeal from an order requiring defendants to produce books and documents to give the plaintiff discovery.

It was contended on the appeal that as the company was in the hands of a receiver who was entitled to the custody of the books and documents, the company could not be required to produce them ; but the receiver had not in fact taken possession of them.

*Held*, that the plaintiff was entitled to the production. The usual order, however, was varied by directing only that the books and documents be produced to the plaintiffs or their solicitors on demand after twenty-four hours notice at the company's general offices, and that the plaintiffs or their solicitors be allowed to take copies of, or extracts from, such portions of the contents thereof as relate to the matters in question.