

*Held*, 1. Sections 886, 896 of the Criminal Code applied and that the objections taken afforded no ground for the prisoner's discharge.

2. Calling the offence a misdemeanour would not affect the jurisdiction of the Stipendiary Magistrate which was clearly given under the Inland Revenue Act, R.S.C., c. 34, s. 113.

3. Following the *Attorney-General v. Flint*, 16 S.C.R. 707, that the Dominion Parliament had power to create such a Court.

*W. F. O'Conner*, for application. *F. F. Mathers*, contra.

Full Court ]

[April 7.

COX v. THE NOVA SCOTIA TELEPHONE CO., LIMITED.

*Negligence—Excavation on public street—Insufficient light and protection against accident—Verdict against company sustained—Costs.*

The defendant company made an excavation across a sidewalk on a public street in the city of Halifax for the purpose of laying cables underground. The excavation was protected after working hours by a number of barrels with planks laid across the top from one to another. Plaintiff while passing along the sidewalk after dark, in the absence of the watchman, fell into a portion of the excavation from which the barricade had been removed after it had been placed in position, and was severely injured.

The evidence given on the trial shewed that the barrier erected was of a frail and insufficient character, and that the place was insufficiently lighted, and that if it had not been for the want of care on the part of defendant in these particulars the accident would not have happened.

*Held*, that plaintiff was entitled to a verdict and that defendant's appeal must be dismissed with costs.

*W. B. A. Ritchie*, K.C., for appellant. *Harris*, K.C., and *W. E. Thompson*, for respondent.

Full Court.]

KAULBACH v. MADER.

[April 7.

*Administration—Party accepting letters cannot renounce without order of Court—Execution—Order for held bad for non joinder and as issued without jurisdiction—Costs.*

Letters of administration in the estate of H. N. K. were granted to his widow S. K. and to his two children E. R. and R. K. S. K. by deed assigned all her interest in the personal property to E. R. and R. K., and by the same deed purported to renounce all her rights, authority and power as administratrix of the estate. E. R. and R. K. obtained from the judge of the County Court for District No. 2 an order permitting them to issue execution on a judgment obtained by H. N. K. in his lifetime against defendant.