the case would have been clear and formal. The magistrates have a jurisdiction which they have not exercised. The summons required by the Act has not been issued, and the conviction that should have been pronounced has not taken place.

Fitzgerald, J.—I concur in the decision of the Court upon the ground of public policy and public safety. It is our duty to assist the magistrates in carrying into effect the provisions of this useful Act of Parliament. The Legislature has given strong powers to the magistrates, and the reason why I comply with the application—that the order made by the magistrates under the 20th section should be quashed—is because there has not been any conviction for the breach of the order of the 27th October, 1871, nor the adjudication of a penalty of that breach of the law. The order of that date is all that it should be. It prohibits the use of the house, and directs that certain works shall be executed to render it habitable, and it is not alleged that this order was not, either in form or substance a legal order, and one that was capable of being enforced. I offer no opinion whether there should be a separate order under sections 14 and 20. Possibly, looking at the Act of Parliament, we might finally come to the conclusion that it might be done by one order, but it is clear that to enforce a penalty there should be a conviction for the offence, and an adjudication ascertaining the amount of the penalty. It is erroneous to say that under section 14 a penalty necessarily attaches to a non-compliance with its enactment; a party might satisfy the Justice that he had used due diligence, and might show a willingness, but inability, to comply with the provisions of the Act, and that he had used every exertion in his power. These are matters for the consideration and adjudication of the magistrate; he has to ascertain whether, under the 14th section, there has been any breach of the order; if so, he is to exercise his judicial discretion in determining what penalty should be inflicted—for there are two penalties, one inflicted for not having done the work, the other for a breach of the prohibition to occupy the house—and the magistrate may inflict the full fine, or reduce the penalty to the minimum amount. The Justices may exercise a discretion, and this will obviously appear by a reference to the 19th section of the Act, for under that section proceedings may be instituted in a Supreme Court to recover costs and expenses, but there must be a conviction and adjudication by the magistrates before, and I do not mean to say that you may not consider the two sections under one order. The only thing done by the magistrates was that which was done under the 20th section, and that fairly would import that the magistrates were satisfied. There had not been a compliance with the order, but that does not appear upon the face of the order to raise a question of jurisdiction. We are of opinion that before there has been a breach of the order, a conviction and adjudication, the magistrate could not make the order for payment of costs and expenses, and we declare that the order made under section 20 should be brought up to be quashed; but this will not prevent the law from being put in force, but we do not interfere with the order of the 27th October. There is no statutable limitation. The nuisance authorities can summon a party under section 14, and under section 20 procure an order for payment of costs.

Barry, J.—I concur in the judgment of the Court.

CORRESPONDENCE.

Professional Etiquette.

To the Editor of the Canada Law Journal:

Gentlemen.—What has the Bar of Ontario come to, when a person professing to be an "Ontario barrister" (at least his note paper is so headed) sends a letter to a lady, who he has learned has a claim against a company, asking her to allow him to sue them, and encloses an order for her signature, a copy of which I send you:

Sir,—I hereby authorize you to collect my claim against————, on the following terms: All risk and expenses to be taken by you; the undersigned to receive one half of the amount recovered, if successful. [Signature.]

Modest, very! Is this touting for business only, or does it amount to Champerty? *Qr.:* If the defendant succeeded, and judgment for costs issued against plaintiff, would this Ontario barrister be worth suing to recover it from him again? Your views on the subject of the above "order" might be of service, and I think would do a great deal to stop this sort of practice.

I remain yours truly,

Etiquette.

[We fear that the great increase in the number of practitioners in Ontario is dangerous to professional ethics. A case like