

Held, on an application for a mandamus to compel the Board to issue a certificate for a license, following *Ex parte Mayberry and Rogers*, 33 C.L.J. 505, that the Court could not control the discretion of the Commissioners in refusing to grant the certificate, but that, had the application been for a mandamus to compel them to hear and decide upon the objection which they had raised as to his having sold liquor previously without license, the rule would have been granted.

J. D. Phinney, Q C., for applicant. *White*, Attorney-General, contra.

Full Bench.]

CLAIRE *v.* LYNOTT.

[Nov. 12, 1897.

Witness disobeying a subpoena.

Application for a rule nisi for an attachment against J. L. for disobeying a subpoena. The affidavits disclosed that he lived twenty miles from the court house, and was tendered and accepted \$2.25 conduct money, which the Court was of opinion was not sufficient to cover his expenses.

Held, however, that, having accepted the money without objection to the sufficiency of the amount, he should be called on to show cause.

Oswald S. Crocket, for defendant, the applicant.

Full Bench.]

EX PARTE RAYWORTH.

[Nov. 16, 1897.

Canada Temperance Act—Adjournment—Day of week or month.

The magistrate adjourned the hearing of a C.T.A. case to Tuesday, December 28th, when Monday was in fact the 28th and Tuesday the 29th December, and on the latter day entered a conviction, the defendant not having appeared either on the return of the summons or on the day of conviction.

Held, that the day of the week governed, and that the conviction was properly made on Tuesday, December 29th.

Rule for certiorari discharged.

D. Grant, in support of rule.

J. W. McCready, contra.

Full Bench.]

SMITH *v.* ST. JOHN CITY RY. CO.

[Dec. 8, 1897.

Consolidation of suits—Sufficiency of order for.

The Imperial Trusts Co. by petition to Harrington, J., sitting in equity, prayed for directions as to the distribution of \$15,360.85 which had been paid over to them out of the funds deposited with the Receiver-General to the credit of these suits. In his order or decree on this petition Judge Harrington declared that these suits by order of the Court in equity on the 26th day of October, 1893, had been consolidated and directed that all costs in connection with the same be taxed on the basis of such consolidation. On appeal from