

the appeal must be allowed and the new trial ordered on this ground.

Ralston, for appellant. *A. A. Mackay*, for respondent.

Full Court.]

[Jan. 14.

THE KING EX REL. JOHNSTON v. JUDGE OF THE COUNTY COURT
FOR DISTRICT NO. 5.

Canada Temperance Act—Appeal from conviction—Computation of time—Code section 750 (a)—Mandamus to judge of County Court.

The relator, who was convicted of a third offence against the Canada Temperance Act, appealed to the judge of the County Court for District No. 5, who declined to hear the appeal on the ground that it was too late. The conviction was made in the County of Pictou on Oct. 21, and the next sittings of the Court, thereafter, were at Amherst, in the County of Cumberland, on Nov. 5, and the next at Pictou in the County of Pictou, on Dec. 3.

The Code, section 750 (a), requires the appeal in such case to be taken "to the next sittings of the Court if the conviction is made more than 14 days before such sittings."

Held, per MEAGHER, J., TOWNSHEND, C.J., concurring, that words "more than" were the equivalent of "not less than," and that in the computation of time within which the appeal was to be taken the day of conviction must be excluded, and as so read the conviction or order was not made more than 14 days before the sittings of the Court at Amherst the appeal was properly taken to the next sittings at Pictou, and a mandamus should go to the judge of the Court requiring him to hear the appeal.

Also, that in the Province of Nova Scotia, appeals from summary convictions under the Criminal Code must be to the next sittings of the County Court in the district and not in the county.

Per LONGLEY, J., that the appeal must be to the next sittings in the county.

Per RUSSELL, J., dissenting, that the appeal must be taken to the next sittings of the Court in the district, and that section 750(a) of the Code must be construed to mean "just 14 days."

J. J. Power, K.C., for relator. *H. Mellish*, K.C., for the judge. *W. McDonald*, for the inspector.