

and continued on the following day and on the 3rd and 4th days of March ensuing, and the magistrate, having taken time to consider the evidence, convicted the defendant of the offence charged, sentenced him to pay a fine of \$50 for the said offence, as well as the sum of \$33.75 for costs of the prosecution, and in default of payment adjudged that the accused be imprisoned in the common gaol for the said county of Albert for the term of eighty-five days.

On motion by defendant's counsel, I granted an order absolute for a certiorari with an order nisi to quash the conviction on the following grounds:—

1. The information having been laid on the 31st day of December, 1908, and the summons thereon not having been issued until the 14th day of January, 1910, a period of one year and fourteen days, without grounds for delay, the police magistrate had no jurisdiction to convict.

2. Ch. 71 of 7-8 Edw. VII. (assented to 20th July, 1908), is *ultra vires*.

3. The defendant brought himself within the exception mentioned in sub-sec. 2 of sec. 1 of said ch. 71 of said 7-8 Edw. VII., and the magistrate had therefore no jurisdiction to convict.

From the return made by the magistrate to the writ of certiorari, it appears that as soon as the information was read over to the accused he was asked if he had any cause to shew why he should not be convicted, or why an order should not be made against him, and the record then reads thus: "The defendant the said Charles N. Beal by his counsel, Doctor L. A. Currey states and objects: 1. To the jurisdiction of the Court; the information laid December, 1908; summons not issued till January 14th, 1910; and the summons being one year and fourteen days after the information, the Court has no jurisdiction to proceed on said information." Other objections to the proceedings were taken before the magistrate, and urged on the application for the writ of certiorari, all of which objections are enumerated above, but I think the substantial ground in support of the order nisi to quash is to be found in the answer to the question whether or not the magistrate who took the information retained jurisdiction to proceed with the case, notwithstanding the lapse of time between the day on which the complaint was laid, and the time when the summons, based on such complaint was issued. Undoubtedly the magistrate was clothed with full jurisdiction in the matter