

the district of Temiskaming, and this being his second offence." He was sentenced to 6 months' imprisonment. The warrant of commitment, reciting the conviction, read, "did unlawfully sell liquor contrary to the provisions of the Ontario Temperance Act made, this being his second offence." There was also among the papers returned a "certificate of conviction," signed by the magistrate, in which the defendant was said to have been "duly convicted of having on the 13th day of August, 1920, at the town of Cochrane, unlawfully sold liquor without the license therefor by law required," and no mention was made of the conviction having been for a second offence.

The sole ground upon which the conviction was attacked was that the previous conviction had not been proved. The only evidence of the previous conviction was contained in the following note, which appeared at the conclusion of the evidence for the prosecution: "Chief Portland draws the attention of the court that this is the second offence against the defendant, the defendant's counsel admits that he was convicted on the 16th day of April, 1920, and paid \$500 and costs \$8;" and in the cross-examination of the defendant, where he said, "I was convicted for selling liquor some time ago."

The "Form of Information for a Second or Subsequent Offence" and the "Form of Conviction for a Second or Subsequent Offence," appended to the Act, contemplate that both the information and the conviction shall set out explicitly the date when, the place where, and the names of the magistrates before whom the accused was previously convicted, and also the date when and the place where the previous offence was committed and the specific nature of the previous offence.

Neither the information nor the conviction complied with any of the requirements of these forms; but, if the previous conviction was sufficiently proved, this conviction ought not to be quashed, but should be amended under sec. 102.

An offence committed after a previous conviction is not as an offence different from a first offence; but sec. 58 provides that in such case the penalty imposed shall be greater. The exact nature of the previous offence is not material if it is sufficiently established that it falls within any of the enumerated sections. Here the admitted previous offence was that of selling liquor. That sufficiently describes the offence to bring it within sec. 58.

The omission of the name of the magistrate and of the places and times of the offence and previous conviction did not invalidate this conviction.

There may be cases in which the omission of these particulars would be unfair to the accused; but in the present case no injustice