

contrary to the Canada Temperance Act, 1878, upon an information charging him with keeping, selling, bartering, and otherwise unlawfully disposing of liquor. He was adjudged to pay a fine of \$50, and \$5.20 costs, and in default of payment and of sufficient distress, he was adjudged to be imprisoned in the common gaol at *hard labour*. A second record of the conviction, bearing the same date as the first, was filed, differing in some minor points from the first, and omitting the adjudication as to *hard labour*, and adjudging the payment of \$5.27 costs. The proceedings having been removed by *certiorari*,

*Held*, that the first conviction was bad for want of jurisdiction to impose *hard labour*, which was not authorized by the Act, and that the second was bad in not following the actual adjudication as to costs, which were, as shewn by the magistrate's minute, \$5.20, and not \$5.27.

The Canada Temperance Act does not *per se* make the selling of intoxicating liquor an offence; it is only after the second part of the Act has been brought into force by the proceedings indicated for that purpose in the first part, which proceedings cannot be judicially noticed but must be proved, and in the absence of such proof the magistrate acts without jurisdiction.

*Held*, therefore, that the convictions were bad, for they did not allege that the Act was in force, nor was it proved otherwise, and therefore, as the jurisdiction of the magistrate did not appear, the writ of *certiorari* was not taken away by sec. 111 of the Act.

*Quere*, whether the convictions were not also open to objection on

the ground that the information embraced more than one offence, and whether the magistrate having, in this respect, disregarded the express directions of the Act 32/33 Vic. ch. 31, sec. 25, made applicable by the Canada Temperance Act, he might not be said to have acted without jurisdiction.

*Quere*, whether sec. 111 takes away the *certiorari* in all cases, or only in cases coming under sec. 110. *Regina v. Walsh*, 206,

## TENANT AT WILL.

*See* LIMITATIONS, STATUTE OF, 3.

## TENDER.

*Of conveyance.*]—*See* SALE OF LAND, 2.

## TITLE.

*Mistake.*]—*See* ASSESSMENT AND TAXES.

*See* FRAUD AND MISREPRESENTATION, 3.—SALE OF LAND, 2.

## TRADE.

*Stock in.*]—*See* BILLS OF SALE AND CHATTEL MORTGAGES, 1.

*Separate.*]—*See* HUSBAND AND WIFE, 2.

## TRADE AND COMMERCE.

*See* CARRIERS.