

within his own boundaries, and in such case the judgment should decree that upon paying the compensation awarded the portion of the land which it represents should be vested in the encroaching party. | |

2. If the land upon which lasting improvements have been made under mistake of title, such as the wall of a building encroaching upon neighbouring land being subject to a mortgage, the compensation money awarded on vesting the land in the trespasser must be paid to the mortgagee and not to the owner of the equity of redemption, unless the consent of the mortgagee to the adoption of the latter course is filed.

Proudfoot, K.C., for the plaintiff. *N. F. Davidson, K.C.*, for the defendant.

Province of Nova Scotia.

SUPREME COURT.

Russell and

Drysdale, JJ.]

THE KING v. SWEENEY.

[March 12.

*Justice of the peace—Jurisdiction—Offence prior to appointment—
Summary conviction—Procedure before summons or warrant—
Constitutional law—Appointment of stipendiary magistrate.*

Held, 1. A stipendiary magistrate has power to try and to convict for an offence committed before the date of his appointment. *Regina v. Bachelor*, 15 O.R. 641, distinguished.

2. The provisions of Criminal Code, s. 655, as to a preliminary hearing of the allegations of "the complainant and his witnesses," apply only to cases of indictable offences and not to cases punishable on summary conviction.

3. The power of a Provincial Legislature, under the B.N.A. Act, to legislate on the subject of the administration of justice, including the constitution, maintenance and organization of Courts, and with respect to the appointment of provincial officers, extends to the appointment of stipendiary magistrates, although the power to appoint judges of Superior District and County Courts is reserved to the Governor-General of Canada.

Power, K.C., and *E. N. Clements*, for the motion. *J. J. Ritchie, K.C.*, contra.