

CAP. XIII.

An Act to indemnify the Municipalities of the Province against Actions in certain cases.

Passed 10th April, 1902.

WHEREAS certain convictions have heretofore been made in the different Counties of the Province before Parish Court Commissioners for violation of The Canada Temperance Act, and it has been held by the Supreme Court that the provisions of the said Act giving jurisdiction to Parish Court Commissioners to try offences under the said Act is ultra vires of the Parliament of Canada;

And whereas it is considered desirable to indemnify the Municipalities of the Province and Parish Court Commissioners, Inspectors, Constables and other officers acting bona fide in such cases, from liability to action;

Be it therefore enacted by the Lieutenant-Governor and Legislative Assembly as follows:—

No Municipality shall be liable to return to any defendant heretofore convicted before a Parish Court Commissioner for violation of The Canada Temperance Act, any fines paid or collected under any such conviction, nor shall any Municipality or any Parish Court Commissioner, Inspector, Constable or other officer be liable for any proceedings taken under any such conviction, or in connection with any such case, merely by reason of the fact that the Parish Court Commissioner has not jurisdiction to hear the same; provided that this Act shall not apply to any case in which the conviction has been set aside or quashed on the ground that the Commissioner had no jurisdiction by reason of the aforesaid provision of the said Act being ultra vires.

CAP. XVIII.

An Act to amend the Law of Evidence.

Passed 10th April, 1902.

Be it enacted by the Lieutenant Governor and Legislative Assembly as follows:—

1. From and after the passing of this Act, all Proclamations and Orders of the Lieutenant-Governor in Council, and the publication thereof, shall be judicially noticed by all Courts and Judges in this Province.

2. The provisions of this Act shall apply to all convictions heretofore made under "The Game Act, 1899," and no conviction heretofore made under the said Act shall be quashed or set aside on the ground only, that on the trial the proclamation declaring the said Act to be in force was not proved; provided, however, that this section shall not apply to any conviction in respect to which any proceedings were, before the passing of this Act, taken by Review or Certiorari to quash the same.

CAP. XIX.

An Act in further addition to and amendment of Chapter 50 of the Consolidated Statutes, intituled "The Court of Divorce and Matrimonial Causes."

Passed 10th April, 1902.

Be it enacted by the Lieutenant-Governor and Legislative Assembly as follows:—

1. The term of the Court of Divorce and Matrimonial Causes provided by the Consolidated Statutes, Chapter 50, Section 5, to be held on the fourth Tuesday in June in each year is hereby abolished, and in lieu thereof a term of the said Court shall be held on the first Tuesday in July in each year; but when the first Tuesday shall happen to be the first day of July, the sitting of the Court and all business therein shall stand adjourned to the next day.

2. It shall be lawful for the Judge of the said Court to sit in Chambers for the despatch of such part of the business of the said Court as can in the opinion of the Judge with advantage to the suitors be heard in Chambers; and such sittings may from time to time be appointed by the Judge to be held at such time and place as may be convenient for the purpose in view.

3. The Judge when so sitting in Chambers shall have and exercise the same power and jurisdiction in respect of the business to be brought before him as if sitting in open Court.

4. All decrees and orders made in any suit by the Judge shall be entered at length in a Record Book of the proceedings of the said Court to be kept by the Registrar, whether such decree or order be made in open Court or at Chambers; if made at Chambers a duplicate original copy of the decree or order shall be furnished to the Registrar for the purpose of such entry. The said Record Book shall be open to the search and examination of the public on payment of a search fee.

5. Questions of fact arising in proceedings in the said Court shall if the Judge of the Court deems it proper, be tried and determined by the verdict of a Jury; and the parties to any Cause, or either of them, may insist that all contested matters of fact arising, or to arise, upon the hearing or trial of the petition or libel in the cause, shall be determined by the verdict of a jury.

6. All trials of questions of fact shall be held before the Judge of the Court, and it shall be lawful for the Judge to direct a Venire to be issued to the Sheriff of the County of York, when the trial is to be held in York, or to the Sheriff of any other County where the trial is to be held, requiring him to summon a jury, as he may be directed by the Venire, to come before the said Judge, at the place where the Court usually sits in Fredericton, or at the County Court House in any other County, when the trial is to be held elsewhere than in York, for the trial of the Cause or matter to be tried. The County Court Houses in

the several Counties in the Province shall be available for the Judge to hold sittings of the Court. Any Sheriff receiving a Venire shall execute the same according to the exigency thereof; he shall have the County Court House prepared and open for the accommodation of the Court, and necessary officers and constables in attendance, and he shall attend the Court himself in like manner as upon a Circuit Court. The Sheriff shall be allowed a reasonable fee, to be fixed by the Judge, for summoning the jury and for each day's attendance at the Court; the constables in attendance shall be paid the usual fees for attendance at Circuit Courts. The Clerk of the Circuits for the County (except in York) shall attend as the deputy of the Registrar of the Court and shall transmit to the Registrar at Fredericton the record of the proceedings in the Court. Such Clerk of Circuits shall be paid for his attendance and services as the Judge shall allow. The jurymen and constables attending the Court shall be paid in like manner as they are paid for attending a Circuit Court, and the like fees shall be collected from the parties as are collected from litigants having Causes for trial at the Circuit Courts, which shall be paid over and accounted for in like manner as fees collected from litigants having Causes at the Circuit Courts are paid over. The Sheriff's fees and Clerk's fees shall be paid by the parties to the Cause. In cases where the trial of the matters of fact takes place before the Court with a jury at Fredericton and both parties reside elsewhere than in the County of York the whole costs of jury shall be borne by the parties to the Cause.

7. It shall be the right of either party to have a special jury struck for the trial of questions of fact arising upon the trial of the petition or libel, in like manner as parties to a Cause pending in the Supreme Court have the right, and the proceedings to obtain such special jury shall be similar to the proceedings for like purposes in the Supreme Court, subject always, however, to any special order or direction of the Judge in respect thereto; provided always, that application for such special jury shall first be made to the Judge of the Court, assigning the reason therefor, and his allowance obtained. In case of a special jury being summoned to try the questions of fact the whole jury expense shall be borne by the parties to the cause.

8. The qualifications and exemptions of jurymen, their rights and compensation for travel and attendance shall be the same as in ordinary causes pending in the Supreme Court. The parties to the cause shall have the same right of challenge to any jurymen that they would have in an ordinary Cause pending in the Supreme Court. The jury shall consist of seven jurymen, and five may find a verdict after two hours consideration, as at a Circuit Court.

9. When any question of fact shall be ordered to be tried by a jury, such question shall be reduced into writing in such form as the Judge shall direct, and at the trial the jury shall be sworn to try the said question and a true verdict to give thereon according to the evidence; and upon every such trial the Judge shall have the same powers, jurisdiction and authority as any Judge of the Supreme Court sitting at Nisi Prius.

10. The rules of evidence observed in the Supreme Court shall be applicable to and observed in the trial of all questions of fact in the Court.

11. The Judge may, if he shall think fit, order the attendance of the Petitioner, Libellant or Plaintiff, and may examine him or her, or permit him or her to be examined or cross-examined on oath on the hearing of any libel or petition, but no such petitioner shall, when so compulsorily examined or cross examined, be bound to answer any question tending to show that he or she has been guilty of adultery.

12. The Judge may from time to time adjourn the hearing of any cause or petition, and may require further evidence thereon if he shall see fit so to do.

13. The proceedings and evidence in all trials, hearings and matters of enquiry in the said Court before the Judge, with or without a jury, may be taken down in shorthand and extended at length by any stenographer or shorthand reporter appointed or assigned for the purpose either by order of the Lieutenant-Governor, or by the Judge of the said Court, and such stenographer or reporter shall promptly, after taking down any proceedings or evidence, extend the same at length in book form and file the same with the Registrar of the Court. In case the Judge appoints the reporter, such reporter shall, before entering upon his duties, be sworn in Court, or before the Judge or the Registrar, well and faithfully to take down all proceedings and evidence and extend and transcribe the same at length and otherwise faithfully discharge his duties as reporter to the best of his skill and ability. If one of the official Court stenographers be assigned to the duty by the Lieutenant-Governor such oath shall not be required.

14. The Judge of the said Court shall have the same power, for good cause, to set aside a verdict and order a new trial that the Supreme Court has in Causes pending in that Court tried at any Court of Nisi Prius; but an Appeal shall lie to the Supreme Court against any judgment allowing or refusing a new trial, provided notice of such Appeal be given within twenty days after judgment pronounced.

15. When the Judge shall direct any question of fact to be tried in any County other than at a term of the Court at Fredericton, he may order a special term or sitting of the Court to be held at the County Court House at the time appointed, and on notice of such special term or sitting published in the Provincial Royal Gazette by the Registrar once, not less than two weeks prior to the time appointed, the Court shall be open for and hear all matters of business properly brought before it in like manner as at a regular statutory term or sitting at Fredericton.

16. The Judge of the said Court shall have and exercise over proctors, solicitors, attorneys and advocates practising in the said Court like authority and control as is exercised by the Judges of the Supreme Court and the Judge in Equity over persons practising in the Supreme Court and the Supreme Court in Equity.

17. The bill of any proctor, attorney or solicitor for any fees, charges or disbursements in respect of any business transacted in the Court shall, as well between proctor, attorney or solicitor and client, as between party