

Held, that it was necessary for the defendants to aver and prove that when the defence was set up plaintiff was then actually practising.

Held, also, that the statute was not retroactive in its effect, and did not apply to solicitors' bills incurred before its enactment.

H. McInnes, for plaintiff.

S. D. McLellan, for defendant.

Full Court.]

THE QUEEN v. MCBERNEY.

[Jan. 12.

Speedy trial—Criminal Code, ss. 762-781—Prisoner held wrongly convicted under, where tried on several charges consecutively, and judgment withheld until conclusion of last case—Evidence of acts of like character receivable to show intent.

Defendant was brought before the Judge of the County Court for the County of Halifax under Act relating to Speedy Trials (Code, ss. 762-781), for trial, charged with four distinct and separate offences. On the conclusion of the first trial defendant's solicitor asked for a verdict, but the learned judge, not being prepared to determine the case, proceeded with the trial of the other charges, and when all had been heard, rendered verdicts of guilty in all four cases. On a Crown case reserved,

Held, that the judge had no power to so withhold his verdicts; that, having done so, the prisoner was wrongly convicted in all four cases, and that the verdicts must be set aside and new trials ordered.

Held, also, that on the trial of a prisoner charged with a criminal act, evidence of the commission by him of other acts of a like character, is receivable to show intent.

Longley, Q.C., Attorney-General, for plaintiff.

F. T. Congdon, for defendant.

WEATHERBE, J. }
Chambers.

[Jan. 15.

HAMILTON ET AL. v. STEWIAKKE VALLEY AND LANDSDOWNE RY CO.

Company—Order for examination of officer in aid of execution—Order 40, Rule 44—Does not apply to person who is not an officer at time of making of order—Order 40, Rule 46—Construction of word "otherwise"—Making of order not authorized by.

Plaintiffs having obtained a judgment for the payment of money against the defendant corporation, obtained an order from a Judge at Chambers for the examination of A.D. before a Master of the Court, under Order 40, Rule 44, for the purpose of ascertaining whether there were debts due to the defendant, and whether the defendant had any and what other property or means of satisfying the judgment. A.D. had been an officer of the defendant company ten years previously to the making of the order for his examination, but was not so at the time of the making of the order, and had no notice of the application for the order. He now moved to set it aside.