

Girouard, J.]

EX PARTE MACDONALD.

[Dec. 31, 1896.]

Habeas corpus—Jurisdiction—Form of commitment—Territorial division—Judicial notice—R.S.C. c. 135, s. 32.

A warrant of commitment was made by the stipendiary magistrate for the police division of the municipality of the county of Pictou, in Nova Scotia, upon a conviction for an offence therein stated to have been committed "at Hopewell, in the county of Pictou." The county of Pictou appeared to be of a greater extent than the municipality of the county of Pictou, there being also four incorporated towns within the county limits, and it did not specifically appear upon the face of the warrant that the place where the offence had been committed was within the municipality of the county of Pictou. The Nova Scotia statute of 1895 respecting county corporations (58 Vict. c. 3, s. 8) contains a schedule which mentions Hopewell as a polling district in Pictou county, entitled to return two councillors to the county council.

Held, that the court was bound to take judicial notice of the territorial divisions declared by the statute as establishing that the place of the offence mentioned was within the territorial extent of the police division.

Held, also, that the jurisdiction of a judge of the Supreme Court of Canada in matters of habeas corpus in criminal cases is limited to an enquiry into the cause of imprisonment as disclosed by the warrant of commitment.

Province of Ontario.

COURT OF APPEAL.

From Divisional Court.] PAYNE v. CAUGHELL.

[Oct. 20, 1897.]

Municipal corporation—Power to lease toll road to individual—Tolls—16 Vict., c. 190, s. 26—Practice—Appeal—Divisional Court.

Under above statute a municipal corporation to which, under 12 Vict., c. 5, s. 12, a toll-road has been transferred by the Governor-in-Council, has power to lease the road to an individual who may exact tolls for the use thereof. The right is not limited to leases to toll-road companies.

Judgment of a Divisional Court, 28 O.R. 157, 33 C.L.J. 39, reversed.

Where pursuant to 12 Vict., c. 5, s. 12, the Governor-in-Council has transferred to a municipal corporation a toll-road upon which certain rates of toll are in force with the right to alter or vary the rates of toll, it can increase the rates of toll to any sum not exceeding the maximum mentioned in schedule A to 12 Vict., c. 4, and the lessee can exact payment of the increased rates and is not limited to a toll sufficient to keep the road in repair.

Where the judge presiding at the trial of an action directs it to stand over to have parties added, and both parties apply to a Divisional Court to set aside this direction, and, by consent and without prejudice to the right of appeal,