

Temperance Act being in force in the county. This is also admitted. To meet this objection, counsel for the Crown cites sec. 1128 of the Criminal Code to the effect that no conviction should be set aside for want of proof of a proclamation, an order in council, etc., but that such proclamation, order, etc., shall be judicially noticed. The question here arises, what facts of this class are to be judicially noticed? The broad definition of judicial notice by Sir Frederick Pollock, viz., that the judges could not help knowing what the whole world knew, must, in the case under consideration, and in the application of the provisions of the above cited sections, receive a qualified application. The fact that the Canada Temperance Act was in force in the county at the time, was one of the facts upon which the justice at the trial of the complaint herein rested in deciding upon the matter of the complaint. This fact should have been brought to his attention during the trial in some way. The order by the Governor in Council declaring that Part II. of the Canada Temperance Act is in force in the county should have been brought to his notice, even produced, as such orders are published from year to year with the Statutes of Canada passed at each session of Parliament. . The fact might have been privately known to the trial justice but it is a long established principle of the law of procedure in every judicial tribunal that no judge can give judgment on a fact within his own private knowledge. With greater reason should this fact be brought to the notice of the trial justice, as not only this fact should be noticed, but the concomitant fact, that no licenses for the sale of intoxicating liquors were in force at the time of the proclamation of the Order in Council should be proved. It is admitted by the counsel that no evidence was given on this point at the trial of the accused, and the minutes of evidence returned by the magistrate shew that there was no such evidence. It was, however, contended that in the recital of the complaint of the informant the fact that the Canada Temperance Act is in force in the county was sufficient to enable the trial justice to take judicial notice thereof. This recital, however, might be a misstatement of fact; and the salutary maxim that no judge, by a misstatement of fact, whether by himself or, as in this case, by the informant, can give himself jurisdiction, applies in this case under consideration.