

ACTS OF LAST SESSION.

thereof, when he became holder, had no knowledge that the proper duty had not been paid by the proper party, or at the proper time, such instrument shall, nevertheless, be held to be legal and valid, if it shall appear that the holder thereof paid double duty as in this section mentioned, so soon as such holder acquired such knowledge, or if the holder thereof, acquiring such knowledge at the trial or inquiry, do thereupon forthwith pay such double duty; or if the validity of such Promissory Note, Draft, or Bill of Exchange is questioned by reason of a part only of the requisite duty thereon having been paid at the proper time or by the proper party, and it appears to the satisfaction of the Court or Judge, as the case may be, that it was through mere inadvertence or mistake, and without any intention to violate the law on the part of the holder, that the whole amount of duty, or double duty, as the case may be, was not paid at the proper time, or by the proper party, such instrument, and any endorsement or transfer thereof, shall, nevertheless, be held legal and valid, if the holder shall, before action brought, have paid double duty thereon, as in this section mentioned, as soon as he reasonably could, after having become aware of such error or mistake; but no party, who ought to have paid duty thereon, shall be released from the penalty by him incurred as aforesaid."

2. This Act shall not apply to any suit pending when it comes into force.

AN ACT

To amend the Act respecting the Duties of Justices of the Peace out of Sessions in relation to Summary Convictions and Orders.

[Assented to 12th May, 1870.]

Whereas, it is expedient to amend Sections sixty-five and seventy-one of the Act respecting the duties of Justices of the Peace out of Sessions in relation to summary convictions and orders; therefore, &c.

1. Section sixty-five of the said Act is hereby repealed, and the following section substituted:

"65. Unless it be otherwise provided in any special Act under which a conviction takes place or an order is made by a Justice or Justices of the Peace, any person who thinks himself aggrieved by any such conviction or order, may appeal in the Province of Quebec or Ontario, to the next Court of General or Quarter Sessions of the Peace; or in the Province of Quebec, to any other Court for the time being discharging the functions of such Court of General or Quarter Sessions of the Peace in and for any district therein; in the Province of Nova Scotia, to the Supreme Court in the county where the cause of information or complaint has arisen; and in the Province of New Brunswick, to the County Court of the County where the cause of the information or com-

plaint has arisen: such right of appeal shall be subject to the conditions following:

"1. If the conviction or order be made more than twelve days before the sittings of the court to which the appeal is given, such appeal shall be made to the then next sittings of such court; but if the conviction, or order, be made within twelve days of the sittings of such court then to the second sittings next after such conviction or order;

"2. The person aggrieved shall give to the prosecutor or complainant, or to the convicting Justice or one of the convicting Justices, for him, a notice in writing of such appeal, within four days after such conviction or order;

"3. The person aggrieved shall either remain in custody until the holding of the Court to which the appeal is given, or shall enter into a recognizance, with two sufficient sureties, before a Justice or Justices of the Peace, conditioned personally to appear at the said Court, and to try such appeal, and to abide the judgment of the Court thereupon, and to pay such costs as shall be by the Court awarded; or if the appeal be against any conviction or order, whereby only a penalty or sum of money is adjudged to be paid, the person aggrieved may (although the order direct imprisonment in default of payment), instead of remaining in custody as aforesaid, or giving such recognizance as aforesaid, deposit with the Justice or Justices convicting or making the order such sum of money as such Justice or Justices deem sufficient to cover the sum so adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal; and upon such recognizance being given, or such deposit made, the Justice or Justices before whom such recognizance is entered into, or deposit made, shall liberate such person if in custody;

"And the Court to which such appeal is made shall thereupon hear and determine the matter of appeal, and make such order therein, with or without costs to either party, including the costs of the court below, as to the Court seems meet; and, in case of the dismissal of the appeal or the affirmance of the conviction or order, shall order and adjudge the offender to be punished according to the conviction, or the Defendant to pay the amount adjudged by the said order, and to pay such costs as may be awarded; and shall, if necessary, issue process for enforcing the judgment of the court; and in any case where, after any such deposit has been made as aforesaid, the conviction or order is affirmed, the Court may order the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, to be paid out of the money deposited, and the residue, if any, to be repaid to the Defendant; and in any case where, after any such deposit, the conviction or order is quashed, the Court shall order the money to be repaid to the De-