

Townshend, J., Graham, E.J., Longley, J.]

[Jan. 26.

FRASER v. WATTERS.

Canada Temperance Act—Seizure of liquors—Costs—Judge's discretion.

Defendants under a search warrant against S. under the Canada Temperance Act seized a quantity of liquors which were found in a locked room in the hotel of which S. was proprietor. S. had shortly before been fined under the Act for keeping liquors for sale. There was uncontradicted evidence of both plaintiff and S. that the liquors seized were the property of plaintiff and not of S., having been sold by S. to plaintiff and paid by him partly in cash and partly by an account against S. The trial judge accepted this evidence as true, and gave judgment in plaintiff's favour, but deprived him of costs, assigning as his reason for so doing an inference that the liquors were intended to be used and were used in violation of the Act.

Held, that the circumstances justified him in so doing and that his discretion should not be interfered with.

Per TOWNSHEND, J., dissenting, that the trial judge having felt compelled to accept plaintiff's testimony as true, and having no evidence before him to warrant him in deciding adversely to plaintiff was bound to give him his full legal rights.

J. U. Ross and J. J. Power, for plaintiff, appellant. W. F. O'Connor and H. S. McKay, for defendants, respondents.

Weatherbe, C.J., Townshend, J., Graham, E.J.,
Meagher, J., Russell, J.]

[Jan. 26.

THE KING v. LOVETT.

Bank Act—Indictment for making false and deceptive returns—Non-direction.

The defendant as president of the Bank of Yarmouth was indicted and tried for having wilfully made a false and deceptive return to the Government respecting the affairs of the bank. On the trial other returns made both before and after that in respect to which the indictment was laid were received in evidence without the jury having been cautioned that they were not to be influenced by such other returns in coming to a conclusion on the main issue respecting the offence charged.