

following year the Act of Incorporation was amended by chapter 49 of the Acts of 1876, the sections of which relating to this case are as follows:—

" 1. The Municipal Courts of the Town of Truro incorporated by chapter forty-seven of the acts of eighteen hundred and seventy-five shall be, a Court for the trial of civil causes, known as the Town Court, to be presided over by the Recorder or Stipendiary Magistrate, and a Court 30 for the transaction of all police and criminal business of the town, known as the Police Court, to be presided over by the Recorder, Mayor or any Councillor. The Town Clerk shall be and act as the clerk of such courts.

" 2. The offices of Recorder and Stipendiary Magistrate of the Town may be filled by one and the same person, appointed by the Mayor and Council. He shall be a Justice of the Peace and a barrister of at least three years standing. In case of the temporary absence of the Recorder from the town, or of his disability through sickness or otherwise to perform his duties, the Council may appoint a suitable person to fill such office during his absence or incapacity.

" 3. The Town Court shall have jurisdiction, cognizance and power to try and determine in a summary way without a jury, all civil actions or dealings *ex contractu*, in which the whole cause 40 of action shall have arisen within the town of Truro, and in which the cause of action does not exceed eighty dollars, or where there are balances not exceeding eighty dollars upon accounts stated and settled previous to suit, and all such civil contracts, where the amount originally due has been reduced to eighty dollars or less by payment of cash, and when the defendant shall prove an offset of greater amount than the plaintiff has proved may give judgment in favor of the defendant for the balance due him; and shall try in a summary way, without a jury actions *ex delicto* in the nature of replevin, trespass to land or buildings or other real estate, in which the title or right of possession is not the object of controversy, provided the cause of such action originated within the limits of the town, and the damages claimed in any such case do not exceed 50 sixty dollars. Such Court shall have and possess all the powers in civil matters within the municipality, conferred upon one or more Justices of the Peace or Stipendiary or Police Magistrate by any Act of the Province of Nova Scotia, or hitherto exercisable or held by them or him; and such Court shall have power whenever a defendant in any suit resides without the limits of the town, or is temporarily absent from the municipality, but resides or is within the boundaries of the County of Colechester to issue its writs and processes of every description against him, and to cause the same to be duly served and executed in any part of such county by the officers of such Court, and by any constable of the County of Colechester, and to adjudicate upon the same."

The Town Court, therefore, has jurisdiction to try only "civil actions," and can exercise its functions in civil matters alone.

Section 2 of Cap. 75 of the Revised Statutes of Nova Scotia creates the offence, and section 60 6 enacts the penalty, as follows:—

" 6. The penalties for violating the law relating to the sale of intoxicating liquors shall hereafter be: For the first offence, ten dollars or imprisonment for twenty days in the county or district jail in the event of non-payment of the fine; for the second offence, twenty dollars or forty days imprisonment; for the third offence, forty dollars or eighty days imprisonment; and for every subsequent offence, eighty dollars or three months imprisonment."

The whole chapter relating to licenses shows in itself that these proceedings are not civil in their nature. For violation of section 35 fine and imprisonment may be imposed; section 23 provides that the defendant may give evidence on his own behalf,—an unnecessary and meaningless provision were these *civil* proceedings. See sections 41 and 49, Cap. 96, Revised Statutes, 70 "Of Witnesses and Evidence."