

of the fact that there has been a conviction. If the appeal be abandoned, the Court of Sessions would not be in possession of the information that a conviction had taken place, and so would not have the means of calling the justice to account, in case he afterwards levied the fine and made no return of it.

Where a justice of the peace committed and fined the plaintiff for carrying away some cordwood, and, after notice of appeal, the prosecutor, finding that the conviction was improper, went to the justice, who drew out for him a notice of discontinuance, which was served on the person acting as attorney for the plaintiff, before the tuen next Court of Sessions, and the justice made a general return to that Court, including this and another conviction, but ran his pen through the entry of this conviction, leaving, however, the entry quite legible; and made a memorandum at the end of it as follows, "this case withdrawn by plaintiff," the return was held sufficient (*Ball q. t. v. Fraser*, 18 U.C. Q.B. 100). The facts of this case, it will be observed, so far from disclosing neglect or refusal, show that the justice did, under the circumstances, all that he could do to comply with the statute; and it would be well for every justice, when in a state of perplexity, to follow his example. The courts will not allow a public officer, such as a justice of the peace, to be vexatiously sued or needlessly harassed. When it appears that everything was done that, under the circumstances of the particular case, could be done, to comply with the provisions of the statute, the justice may rely upon receiving all necessary protection as against vexation or oppression.

In each return, a justice may include as many convictions as have, up to the time of the making of the return, been had before him; but for every conviction omitted from the return, he is liable to be sued for the penalty.

Where a justice at the same time convicted three persons severally, and neglected to make a return of the convictions, he was held liable to a fine of eighty dollars for each one of the three convictions (*Donagh q. t. v. Longworth*, 8 U. C. C.P. 437). So in the event of habitual neglect, it may become a matter of most serious consequence. Some magistrates, in the course of three months, make as many as twelve convictions, and, in the event of neglect to make the requisite return to the next Court of General Quarter Sessions, such a magistrate would be liable to a penalty of \$960! It is to be hoped that these remarks will not be without due effect upon the many magistrates who, by their inexcusable neglect of plain and known duty, daily lay themselves open to be mulcted almost to ruin.

Another remark, and we have done. It is this: In the case of a conviction by two or more justices of the peace, it is the duty of each and all to make the return. By this

we mean that though only one return is required, each justice is liable to a penalty of eighty dollars if that return be neglected. Thus: if three justices convict of an offence, and no return be made, the penalty, instead of being only \$80, would be \$240, or \$80 from each (*Metcalf q. t. v. Reeve & Gardner*, 9 U. C. Q. B. 263). The moiety of the penalty is given to any person, that is, to the first person who shall sue for the same. The justice is not liable to be sued by two or more persons for one and the same penalty. If, however, the person who first sues do so without any intention of proceeding to judgment, so as to collect the penalty, but in fact to protect the magistrate from being sued by other parties for the same cause, such device will not be allowed to succeed (*Kelly q. t. v. Cowan*, 18 U.C. Q.B. 104).

SPRING ASSIZES, 1860.

| DATE. | MIDLAND. | EASTERN. | OXFORD. | HOME. | WESTERN. | TORONTO. |
|----------------------|---------------------|-------------------|----------------|-----------------|------------------|-----------------|
| Wednesday, March 14. | C. J. Robinson..... | C. J. Draper..... | J. McLean..... | J. Barns..... | J. Richards..... | J. Hagarty..... |
| Thursday " 15. | Whitby..... | ..... | ..... | ..... | Sarnia..... | ..... |
| Monday " 19. | Peterboro..... | ..... | ..... | Hamilton..... | Goderich..... | ..... |
| Tuesday " 20. | Cobourg..... | ..... | Guelph..... | ..... | London..... | ..... |
| Monday " 26. | ..... | ..... | Berlin..... | ..... | ..... | ..... |
| Monday " April 2. | ..... | ..... | ..... | Niagara..... | ..... | Toronto..... |
| Monday " 9. | ..... | ..... | Stratford..... | ..... | St. Thomas..... | ..... |
| Tuesday " 10. | Belleville..... | Perth..... | ..... | ..... | ..... | ..... |
| Wednesday " 11. | ..... | ..... | Woodstock..... | ..... | Chatham..... | ..... |
| Monday " 16. | ..... | Brookville..... | ..... | ..... | ..... | ..... |
| Tuesday " 17. | ..... | Cornwall..... | Brantford..... | Welland..... | Sandwich..... | ..... |
| Monday " 23. | ..... | ..... | ..... | ..... | ..... | ..... |
| Monday " 28. | Pictou..... | ..... | ..... | Milton..... | ..... | ..... |
| Wednesday " 25. | ..... | Ottawa..... | Simcoe..... | ..... | ..... | ..... |
| Monday " 30. | ..... | ..... | ..... | Barrie..... | ..... | ..... |
| Tuesday " May 1. | Kingston..... | L'Orignal..... | Cayuga..... | Owen Sound..... | ..... | ..... |
| Monday " 8. | ..... | ..... | ..... | ..... | ..... | ..... |
| Monday " 7. | ..... | ..... | ..... | ..... | ..... | ..... |
| Tuesday " 8. | ..... | ..... | ..... | ..... | ..... | ..... |
| Tuesday " 15. | ..... | ..... | ..... | ..... | ..... | ..... |

Easter Term, from Monday, 21st May, to Saturday, 2nd June.