

shall apply also to police and stipendiary magistrates of cities and incorporated towns in every other part of Canada, and to recorders, where they exercise judicial functions." The applicant consented to be tried before the police magistrate of Fredericton on a charge of stealing goods of the value of \$100, pleaded guilty and was sentenced to three years' imprisonment in Dorchester Penitentiary.

Held, on application for his discharge on habeas corpus, that the provincial Act of 1889 was constitutional (it having been urged in support of the application that it was not so, being a delegation of the legislative functions of the provincial legislature with reference to the jurisdiction of provincial courts), and that the enactment made effective in New Brunswick the amendment of the Criminal Code above quoted, which it was contended was ultra vires of the Parliament of Canada.

Held, also, that the fact that there are no Courts of General Sessions of the Peace in New Brunswick, and that no person therefore could be charged in New Brunswick with an offence "for which he may be tried at a Court of General Sessions of the Peace," does not render the amendment of 1900 inapplicable to this province; and that the section is to be construed by reading into it the words "if he were in the province of Ontario."

Application refused.

Crocket, for the applicant. *Barry*, K.C., for the Crown.

En Banc.] EX PARTE PORTER. [Feb. 5.
Arrest, imprisonment and examination of debtors—Order of discharge—Failure to shew jurisdiction on its face.

An order of discharge made by a clerk of the peace under 59 Vict. 28 described the defendant as "in custody of the gaoler of Victoria county," and was signed by the "clerk of the peace in and for the county of Victoria." The notice stated that the application for discharge was to be heard at Andover, in the county of Victoria.

The Court refused under these circumstances, BARKER and GREGORY, JJ., dissenting, to quash the order of discharge for not showing on its face that the clerk of the peace was acting within his territorial jurisdiction.

Rule refused.

Carter, in support of rule. *Lawson*, contra.

Province of Manitoba.

KING'S BENCH.

Full Court.] TOWN OF EMERSON v. WRIGHT. [March 5.
Municipal corporation—Retainer of solicitor to bring suit may be by resolution—Subsequent ratification where suit commenced without sufficient authority.

By 57 Vict., c. 10, all the powers and authority of the Mayor and Council of the Town of Emerson were put an end to, and it was provided