

Full Court.]

PETITPAS v. COUNTY OF PICTOU.

[March 8.]

Public Health Act—Destruction of private property to prevent spread of infectious disease—Liability of municipality for

The Public Health Act, R.S., c. 102, s. 32, provides that "all necessary expenses incurred by a local board in suppressing any infectious or contagious disease shall be a charge against the municipality."

In an action by plaintiff against the defendant municipality to recover the value of personal property destroyed as alleged by direction of the board of health during an epidemic of small-pox for the purpose of preventing the spread of the disease.

Held, allowing with costs defendant's appeal from the judgment entered in favour of the plaintiff, that in the absence of proof of proper authority for the destruction of the property, neither the board nor the municipality could be held liable.

Per WEATHERS, J., that assuming the property to have been destroyed by order of the board, there was no provision in the Act to render the municipality liable to make compensation for the destruction of infected property dangerous to the public health.

TOWNSHEND, J., dissented.

H. Mellish, K.C., E. M. Macdonald and W. B. Ives, for appeal.
E. L. Gerroir, contra.

Full Court.]

ROSS v. MORRISON.

[March 8.]

Canada Temperance Act—Sale of liquor to be disposed of contrary to provisions—Action to recover price.

To an action by plaintiff for goods sold and delivered, defendant pleaded that plaintiff's claim, if any, was for the price of intoxicating liquors sold by plaintiff to defendant at North Sydney, in the County of Cape Breton, the plaintiff well knowing that the same were to be sold and were actually sold within said county, in which the second part of the Canada Temperance Act was at the time of such sale in force and effect. The date of purchase of the liquor and the price were admitted. Also that plaintiff knew that the Canada Temperance Act was in force in North Sydney where defendant was carrying on business as a dealer in intoxicating liquors. Also that the order for the liquor was given by defendant to an agent of plaintiff at North Sydney, such order being subject to the approval of plaintiff. Defendant proved that the liquor in question was purchased through D., with whom he had dealt as an agent for the sale of liquor for a number of years, and that when he made the purchase D. was aware that defendant was in the retail trade.

Held, dismissing plaintiff's appeal with costs that there was sufficient ground to justify the judgment for defendant.

Fullerton, for appeal. O'Connor, contra.