

THE DAILY EXAMINER.
JANUARY 29, 1884.

The Recent Scott Act Judgment.

The full text of the judgment of the Chief Justice and Mr. Justice Hensley in Connolly's case, we see printed in one of our city newspapers. A few comments upon it, written only with the desire to criticize it fairly and candidly, will not be amiss, at a time when the correctness of this judgment is being freely discussed by the Bar, and by intelligent laymen.

The decision of both Judges, shortly and in effect, is simply this: There is a reasonable doubt as to the interpretation of this 123rd section. The ancient privilege of a witness in not being compelled to answer any questions which may tend to criminate himself, is found jealously preserved in British tribunals from age to age. This privilege is not taken away by the express language of this section, and, not being so taken away, we shall, therefore, construe it by those principles of construction which are well defined, and enjoined on the Judge in construing doubtful enactments of the Legislature, and so construing it decide that the witnesses privilege is not taken away.

If this is the judgement fairly stated—and we think it is—there are but two points presented:

1. Is the section doubtful?
 2. If so, is this its proper construction?
- In examining the first point we must ever bear in mind that, by the rules of legal construction, it is the first duty of the courts to give expression to every enactment of the Legislature, so that no letter of the statute law shall be without force and effect; and that only so far as the Courts of Law give effect to the intention of the Legislature, do they properly perform their functions. Now in ascertaining "intention," the means used are, and can only be the same as those used in the interpretation of any ordinary English sentence. What does the writer mean? Perhaps the only difference consists in this: That we are bound to consider the Legislature as an intelligent writer, and so to have meant something, while the writings of a foolish man may not be discernable, meaning nothing.

Now what does this English sentence, numbered 123 in this statute, mean? The learned Chief Justice himself, strangely enough, says that "it is not unlikely that the person who penned the Act supposed that the 123rd clause would be sufficient to compel the defendant to answer, *privilege or no privilege*." Shall we add, that without doubt, the person could have had no other intention for the true reason that if he did not mean that, he meant nothing, which is not a possible construction of any Act of Parliament, for it must mean something.

Follow the logic of the ensuing sentences and see where we are if the Judgment of the Supreme Court is correct. A defendant may be called as a witness. As a witness his evidence is only required, and can only be given, upon such matters as are material to the issue. His answer to all questions on matters material to the issue must necessarily tend to exonerate or criminate him, as the issue is his own innocence or guilt. He is not bound to criminate himself, therefore, he is not compellable to give evidence against himself in any proceeding matter or question under the Scott Act, wherein he is the person defending. Now the 123rd section says that the person defending shall be not only competent but compellable to give evidence in the proceeding in which he is defendant. Is not this the direct opposite of the logical conclusion of this judgment? True, there are two possible ways out of this striking contradiction. One, that the statute meant only to compel the defendant's evidence in all matters irrelevant to the issue, which farcical interpretation we will not stop to refute. The other that the word "compellable" only applies to such evidence as tends to the acquittal of the defendant, or in other words that the statute enacts that the defendant must give evidence in his own favor. Were this deduction not sufficiently absurd in itself, the words of the section forbid such an interpretation, for the Legislature use the both words, "competent" and "compellable," the first for the express purpose of permitting the defendant to give evidence showing his innocence, the second for the equally express purpose of enforcing his testimony where the evidence will tend to his conviction. Indeed, we need not argue this latter point, as under these identical words, in the Evidence Statute quoted by Mr. Justice Hensley, the Plaintiff or Defendant in any civil suit can and does every day force his adversary to give self-discussing evidence.

If we are right in our contention so far, and we see no flaw in its logical accuracy, there can be no doubt that the judgment in review has practically wiped this section out of the Statute Book. Now, we say that any such decision must be wrong according to every principle of legal construction, for that section meant something, and it has been interpreted to mean nothing.

We confess to not a little astonishment at the argument drawn in these judgments from the use of certain words in section 29th in this statute, and similar ones in other Acts regulating corrupt practices at elections. In all these cases the person charged is not on the witness stand; a witness is simply being examined

for the purpose of convicting some one else, and the law expressly enacts that he, the witness, must answer though the answer tend to criminate him. The law then says to such a witness, we used your evidence for the purpose of convicting certain guilty persons. We could not let your crime stand in the way of ensuring the punishment of those against whom you testified, you can go unpunished of justice, as without your assistance we could not convict the greater offender. What possible analogy does there exist between such a witness and a defendant on the witness stand examined as to his own innocence or guilt. Words necessary in the one case are senseless and useless in the other. A witness is expressly protected, because it is intended expressly to protect him. A defendant is being criminally prosecuted and is not so protected, because it is not intended to protect him. The object, however, is the same in both cases—the punishment of the law breaker. In the one; it is done by using the lesserascal for the punishment of the greater, though at the expense of the pardon of the former. In the other by compelling the truth from the lips of the defendant himself. This is the only analogy we can see.

(Concluded next issue.)

Equalization of Official Salaries.

There is one thing which the Official Reports of 1883 show very forcibly—the smallness of the salaries paid Dominion officials in P. E. Island, as compared with these in every other part of Canada. Take, for instance, the salaries paid Customs officials in the other Provinces. At the port of St. John the six officials who head the list are paid as follows:—

Collector	\$3,000
Chief Clerk	1,500
Clerk	1,200
Clerk	900
Clerk	1,200
Cashier	1,100
Total	\$8,900

At Halifax the leading officials are paid,—

Collector	\$3,000
Surveyor	1,500
Chief Clerk	1,600
Clerk	850
Cashier	1,200
Registrar of Shipping	1,400
Total	\$9,550

At Winnipeg they are paid,—

Collector	\$3,000
Chief Clerk	2,400
Appraiser	1,400
Clerk	1,200
Assistant Appraiser	800
Assistant Appraiser	600
Total	\$8,400

At Victoria, B. C., they are paid,—

Collector	\$3,800
Chief Clerk	1,700
Landing Waiter	1,700
Clerk	1,200
Sub-Collector	1,600
Tide Waiter	700
Total	\$10,700

But at Charlottetown they are paid only,—

Collector	\$1,800
Assistant Collector	1,200
Chief Clerk	850
Clerk	700
Clerk	500
Clerk	600
Total	\$5,650

While at Summerside they are paid,—

Collector	\$1,000
Clerk	500
Landing Waiter	400
Landing Waiter	300
Locker	300
Preventive Officer	50
Total	\$2,550

Though Charlottetown and Summerside have, we believe, connections with a greater number of outports than either of the ports brought into the comparison, and in proportion to the extent of country which they supply, have a larger coast-line to guard.

The differences between the pay of Customs officials in Charlottetown and Summerside, and those in St. John, Halifax, Winnipeg and Victoria exist with respect to officials in the other departments of the public service.

This is a matter to which we have repeatedly called attention, and one in which our representatives and the Government should, we think, effect a change.

The McKenzie Government, when they were in power, made the differences still greater, by lowering the salaries in many cases; and we look to the McDonald Government to make them less, by raising the salaries so that they may compare, in justice with salaries paid in the other Provinces.

Why should an Island official not be paid as well as an official on the mainland, who is no better qualified and no more industrious than he? Is it because the Island is a small place? Then we suggest an interchange. Let some of the well-paid officials of St. John or Halifax or Winnipeg or Victoria be sent to the Island for a term, and take the salaries paid on the Island, and that the ill-paid officials of the Island be distributed among the larger and more favored Provinces, and receive, for a time, at least, the higher pay! It is wrong that Canadians who enter official life in the Island should be kept grinding away for a bare livelihood, simply because the Island is small, while Canadians, with no rights that Islanders do not (or, at least, ought not to) possess, with no higher abilities, with no more difficult or arduous duties to perform, are in the enjoyment of large salaries.

We invite the attention of our representatives and the Government to this matter.

The Loss of the "City of Columbus."

We have looked with much anxiety for the report of the real causes of the shocking disaster which befel the "City of Columbus." So far as we can perceive the blame must rest on the second mate, Mr. Harding, or else the compasses were out of order. The Captain, and quartermaster McDonald, agree as to the orders given by the Captain. The second mate, Mr. Harding, was left in charge. Mr. Roderick A. McDonald, the quartermaster, was at the wheel, and steered as straight a course as he could. He corroborates Captain Wright's statements respecting the position of the ship, and the course given him to steer by the Captain, previous to the latter leaving the wheel-house. Mr. Harding was lost. If alive he probably could clear up the mystery as to the ship's being so far out of her course. Captain Wright speaks in strong terms as to the capabilities of Mr. Harding for the post he filled. He says he found him the quartermaster, when he joined the ship, but recognizing his abilities, advanced him to the position of second mate. An investigation has been ordered, and it is to be hoped that the exact cause of the fearful disaster will become known. The man who was the lookout was saved, and he was the person who saw the buoy which first indicated the dangerous position of the ship, previous to her striking. The investigation will, no doubt, clear up all the conflicting accounts.

The loss of the "City of Columbus" is among the most terrible of shipwrecks. Just a few hours before so many were launched into eternity, the ship had sailed from her dock in Boston, the weather was fine, and the water smooth as a mill-pond. In less than twenty-four hours, the ship was a hopeless wreck, one hundred and one souls had perished, amid frightful struggle for life, and those who were saved suffered hours of exposure, almost worse than death.

That such a terrible calamity should fall upon the shoulders of Capt. Wright, as the loss of the ship, and the attendant horrors, which he feels so sensitively, we can only say, in feeble language, we are heartily sorry. He has been known here for years, first as chief mate under Capt. P. A. Nickerson, on the line of steamers running between Boston and this port, and afterwards as Captain of the "Alhambra" for several seasons, and then master of the S. S. "Carroll," until the Company offered him the command of the magnificent "City of Columbus." Some years since, he married Miss Cairns, daughter of the late Mr. John Cairns of Charlottetown. He was always known as a competent, careful, diligent, painstaking steamship commander, unobtrusive, courteous and obliging to all who sailed or took passage with him. In port or at sea he was always on duty, and looking out for his ship and the interests of the owners. The writer of this article has often taken passage with him to and from Boston, in both steamships under his command. Under all circumstances he always found Captain Wright closely attending to his duties, night and day. He was always at the right spot, at the right time, giving the right order. The writer has often admired the quiet, unostentatious way in which Captain Wright commanded the ship, looked after the details of his office as Captain, and the indefatigable manner in which he attended to navigating the vessels under his command. In many cases he would be out of the wheel-house scarcely an hour at a time during his voyages. When one wished to see Captain Wright, one could safely calculate finding him on duty in the wheel-house. The impression on those who often had occasion to observe him was, that he was a seaman of excellent judgment, and left nothing to chance.

There was no bluff or bravado, or ostentation, such as many commanders of ships assume; and that he would act the part of a brave man, in any emergency, such as he has shown at the terrible wreck of his ship, is what every person who knew him intimately, believed. His noble work in cheering the faint-hearted, and refusing to leave the wreck until the last person was saved, proclaim him a man fitted for the work of a ship's captain.

Not one of the many who know him but will heartily regret the untimely and terrible death of Mr. A. Morrison, the chief engineer. He also married a daughter Mr. Cairns. Mr. Morrison first came to our waters as engineer of the steamer "Island City," which plied for a while on the Straits, in connection with the Boston Line of Steamships. He afterwards was chief engineer of several of the boats of the same line, running here, and went with Capt. Wright to the "City of Columbus" from the "Carroll." He was a thoroughly competent engineer, and for years enjoyed the confidence of the Company under which he served for so many years. Mr. Morrison was a jovial, good-hearted, good-natured man, intelligent and upright. His habits of life were excellent. Not one who knew him any way intimately, but will drop a tear to his memory. May his widow and son bear their loss with fortitude, as they have met with a sad bereavement.

Our fellow Islander, Mr. R. A. McDonald, the quartermaster of the ill-fated ship acted the part of a brave and clear-headed man. By his guidance, the only boat of the ship which reached the shore was landed, and the lives of those in it, except one poor fellow, were saved. Those saved, give Mr. McDonald the credit of saving their lives. Mr. McDonald is a son-in-law of Mr. George W.

Millner, of Charlottetown. He was for some time in the employ of the Steam Navigation Company here. We congratulate him on his narrow escape from a fearful death.

Since the above was written we find that a large number of ship captains, acquainted with the coast and the route followed by the "City of Columbus," all agree that Capt. Wright was fully justified in lying down for rest as he did. The statement of Capt. Howes we published in another column. The ship had passed through the narrow channels and the really dangerous places, and with the course given to the quartermaster and the second mate, the ship should have proceeded out to sea on a course at least a couple of miles from rocks, shoals or danger. It is mysterious how the ship should have been headed to the fatal spot.

LETTERS TO THE EDITOR.

A Falsehood Contradicted.

SIR,—The intemperate party of Prince County are making a great effort to defeat the Scott Act. Amongst the falsehoods being scattered broadcast by them the statement that "J. J. Chappell, Esq., was dismissed from the office of Grand Scribe for habitual inebriation," is the most malicious and unfounded. It would be ludicrous to tell your readers there is no truth in the charge. Mr. Chappell's name is a household word in the home of every true son of temperance. When we remember that the enemy is circulating this report in places where Mr. Chappell is comparatively unknown, it becomes our duty to give the accusation our unqualified denial. When those means have to be resorted to it shows the innate rottenness of the party that uses them, and is an acknowledgement of their final defeat. Friends of temperance, lovers of happy christian homes, rally round us, help us to hasten the day when the ruin curse shall be a blight of the past.

Yours, A SUFFERER.
Ch'town, Jan. 29, 1884.

Contradiction.

SIR,—In your issue of the 26th instant, I notice where you state that Mr. R. C. McLeod's imported station "Dartmouth," trotted a mile in 2.25. This is not correct. He trotted two half-mile heats—first in 1.20, second in 1.19. This is the correct time.

Yours, ALL RIGHT.
Summerside, Jan. 28, 1884.

The "City of Columbus."

A WELL KNOWN CAPTAIN CONFIDENT THERE IS A ROCK OUTSIDE THE BUOY AT GAY HEAD.

Capt. Frank M. Howes, of the steamer "Berkshire," of the Baltimore line, who is now in Boston, in an interview says: "I see that Capt. Wright says that there must have been a rock outside the buoy, and I think he is right. About four years ago the steamer "William Crane" of our line passed in by there just after a fog, having fallen in to the southward, going within two ship-lengths of that buoy, and struck something very hard, which caused her to career over considerably, but she passed along, and as she didn't leak, she was not taken into dock for examination at that time. When she came to be hauled out to clean and paint they discovered a long scratch made by some hard substance, evidently a rock, which had dented in her plates for a distance of twenty or thirty feet. They put a patch on as a sort of safeguard, of some fifteen feet in length, in the worst place. So I think that Capt. Wright's statement, that he struck a rock there, is true. Now, the "William Crane" at that time was going at the rate of probably eleven knots an hour, drawing about fifteen and a half to sixteen feet of water, and her great speed caused her to pass over it; the water being smooth at the time it did not punch a hole in her. The "City of Columbus," probably, was not going more than four knots an hour, and so she stopped on it, and I can imagine just how she was thrown off the rock, and before he could get her round she went on the main ledge, and those tremendous seas took her up and threw her on it before it could be avoided. I see by one statement that she was a quarter of a mile inside the ledge. I don't doubt it at all. She could have been hurled a quarter of a mile in fifteen or twenty minutes, with the wind and sea helping her. I notice it is said that Captain Wright found he could not work her off, so he started his engines to go ahead; but it is very reasonable that she should have been thrown a distance of 2.0, 300 or 400 feet before he could do anything and finally wedged in there solidly. I think Captain Wright's judgment about it is superior to anybody's else. I don't doubt in the least that he made that buoy on his port side, from the fact of the Wm. Crane's experience four years ago."

"Have you ever noticed this tendency to drift on to this rock?" inquired the reporter.

"Yes; I have. On my trip before last, bound out, we had a heavy gale, blowing from about west-southwest. I got the ship out about to Tarjaulim cove and turned her over to my second officer. I went to my room, giving him the course of west-southwest, our usual course out of the sound. As we were right off Gay Head he reported to me that the ship would not come up to her course, that she was falling off to the south and then heading southwest by south. Finding that she would not come up to her course, it being very rough, the wind on my starboard bow about a point or two, and fearful of being drifted over to that shoal, I immediately hard-a-starboard and wore ship to get her round up to the wind, thus making a complete circuit. If my second mate had not reported to me this fact the "Berkshire" might have gone ashore in the same place that the "City of Columbus" did. The rule is aboard all ships—and I have no doubt it was the rule on Capt. Wright's vessel—that the officer of the

deck shall report everything out of the usual run of things. It is always the duty of the officer of the deck to report to the captain when the ship is not making her duties, and it is one of the most important duties that an officer can be entrusted with."

TELEGRAPHIC NEWS.

[SPECIAL DESPATCHES TO THE EXAMINER.]

The York County Election.

SACKVILLE, N. B., Jan. 29.
The election in York County takes place to-day.

A Disastrous Gale.

LONDON, Jan. 28.
News of the disasters caused by the last gales continue to pour in.

A Large Nationalist Meeting.

DUBLIN, Jan. 28.
Ten thousand people were present at a Nationalist meeting last evening at New Port.

The Gloucester Fishing Fleet.

GLOUCESTER, MASS., Jan. 28.
Another of the over due Georgia men is given up as lost with all her crew, twelve men, mostly natives of Cape Breton.

Resuming Work.

TROY, N. Y., Jan. 28.
The Albany Iron Works, in this city, resumed work to-day after a period of idleness, giving employment to 1,500 men.

An Honor Conferred on the Governor-General.

LONDON, Jan. 28.
The Marquis of Lansdowne has been made a Knight of the Grand Cross of the Order of St. Michael and St. George.

A Double Murder.

CHATTANOOGA, TENN., Jan. 28.
A man named Webb became involved in a difficulty in Jackson County, Alabama, to-day, with three brothers named Milber, and killed two, fatally wounding the third.

Killed in an Engine Room.

NEW YORK, Jan. 28.
James McBride, oiler in an engine room in Brooklyn, was caught in a fly-wheel which makes fifty-six revolutions a minute. His head was completely severed from his body.

The Duty on Flour and Wheat.

OTTAWA, Jan. 28.
Numerous deputations have waited on the Government recently, asking that the duty be removed from flour and wheat. The Government have decided they will not remove the duties.

Canadian Vessels Ashore.

LONDON, Jan. 28.
Twelve ships are reported wrecked on the English coast, the result of the late gale. Among them are the brigantine Jonathan Weir, of Moncton, N. B., and the Herbert Beech, of Yarmouth.

Aquatic.

LONDON, Jan. 28.
The single scull race between Barbear and Elliott, for the local championship of England, took place to-day, and Bubar won by four lengths.
Barbear and Ross row for \$1,000 a side on March 10th.
Bubar is the favorite as he has ten seconds start.

Notes from Egypt.

CAIRO, Jan. 28.
Sir Evelyn Baring, British Minister, is very ill.
Mr. Chifridji Llyd, Under Secretary of the Interior, is said to be confined to his bed.
The new Sultan of Dargur is a son of a former Sultan.
The Kingdom is to be restored on conditions that slavery be abolished, and that commerce be free and unrestricted.

Dominion Political Notes.

OTTAWA, Jan. 28.
Cameron, of Huron, is evidently working up claims for the position of Minister of the Interior in the far off Grit Ministry of the future, he has asked for many queries of returns already and promises to ask for a good many more. He will ask for copies of all papers, documents or resolutions sent to the Government on the subject of the administration of the Northwest, and the complaints and grievances of the inhabitants, etc.

Casey wants copies of any agreement between the Government and the contractors for Section B. in regard to measurement, classification of work done, and copies of estimates.

Blake wants a number of papers, among them copies of correspondence relating to the negotiations between British Columbia and the Government of Ontario, brought down. He also wants to know which are the clauses of the statutes under the authority of which the Government made the guarantee arrangements with the Canadian Pacific Railway Company. Also, if any tariff changes will be made for copies of the proceedings before the Privy Council in the case of the Queen against Mr. Cree. Weldon wants a return of casualties to trains on the I. C. R.

Mr. Muteck will introduce an Act for the better prevention of frauds in connection with patent rights.

Mr. Ives wants a return showing the average price obtained for lands sold in the Canadian Railway Bill.

Mr. Conroy wants copies of correspondence in regard to the claims of the Quebec Province against the Dominion.

Cameron, Opposition, introduced a bill

to-day entitled An Act to repeal the Act respecting the sale of intoxicating liquors and the issue of licenses thereof. The subject of Provincial and Dominion rights on this matter will be fully discussed.

In answer to Farrow, Sir John said the Government could lay down no rules about extending time to settlers in the Northwest for payment of purchase money of lands. Each case would be treated on its own merits.

The Postmaster-General, in answer to a question, said the question of reducing postage was under consideration.

In answer to Melrose Sir Charles Tupper said the Government had made no arrangements to settle the unpaid claims of contractors and laborers for work done on the Short Line Railway.

Mr. Davies, P. E. I., asked for an order of the House for copies of all reports made by the Steamboat Inspectors of Hulls and Machinery on the steamers "St. Lawrence," "Princess of Wales" and "Northern Light," since the appointment of the Inspectors.

Weather Bulletin.

Probabilities for the next 24 hours for the Maritime Provinces.
TORONTO, January 29—10 a. m.
North to east winds, fair to cloudy weather with snow in the southern portion, higher temperature.

METEOROLOGICAL OFFICE.

Charlottetown, 19th Jan. 1884.
Highest temperature (reading) 5.9
Lowest temperature (read at midnight) -17.0
Lowest temperature this morning -20.1
Temperature this morning, at 8 o'clock 18.3
Temperature this afternoon, at 1 o'clock 20.0

"KENSINGTON FARM."

NOTICE is hereby given, that whereas trees have lately been cut down and others wantonly injured, and fences destroyed on the "Kensington Property," near this city, the subscriber, who is the owner of the said property, will cause to be sued all persons found in any way trespassing thereon.
The part of this property fronting on the Hillsborough River will be leased for farming purposes for a term of years.

MICHAEL BEAZELEY,
By his Attorney G. W. DUBLOIS.
Ch'town, Jan. 29, 1884.—if

Pay Your Taxes and Save Costs.

NOTICE is hereby given to all persons who have not paid their Real Estate Tax for year 1883, that I will apply to His Honor the Magistrate on Wednesday the 6th day of February next, for JUDGMENT against such defaulters, when warrants will be issued and placed in the hands of the Sheriff for collection.

FRANCIS S. CHANIER, Collector.
Ch'town Jan. 29, 1884.—if date.

Charlottetown Cemetery Company.

THE ANNUAL MEETING of the Shareholders of the above Company will be held at 4 o'clock, on TUESDAY afternoon, the 5th day of February next, at the office of the Steam Navigation Company, corner Great George and Lower Water Streets.
By order of the President,
F. W. HALES,
Secretary Cemetery Co.
Jan. 29, 1884.—if date.

NOTICE TO CONTRACTORS

SEALED TENDERS, addressed to the undersigned and endorsed "Tender for North Rustico Works," will be received until the 9th of February next, inclusive, for the following works:—

1st. The removal of the Light-house (tower and cottage connected) at present at North Rustico, a distance of about 170 yards, and building a brush block and placing the Light-house upon the same.

2nd. The erection and completion of a new range and foundation for the same.

The plans and specifications for the above works can be seen at the office of Donald McKay, Esq., Oyster Bed Bridge and at the office of the Agent of the Department of Marine & Fisheries, Charlottetown.

An accepted bank cheque equal to 5 per cent. of the Tender, made in favor of His Honor the Minister of Marine & Fisheries, must accompany each Tender, which will be forfeited should the person whose Tender is accepted fail to complete the contract and do the work for which he tenders. All cheques or Tenders not accepted will be returned.

Tenders must be made on the proper forms which will be supplied to intending contractors.

The Department will not be bound to accept the lowest or any tender.

ARTEMUS LORD,
Agent Marine & Fisheries.
Ch'town, Jan. 28, 1884.—21.

To the free and independent Electors of the Fourth Electoral District of Queen's County.

GENTLEMEN,—Being unanimously chosen by a full convention of delegates from all parts of your district, as the Liberal-Conservative candidate at the forthcoming election, to fill the vacancy caused by the death of the much-lamented late Angus D. McMillan I am now before you to solicit your influence and support.

If returned, you may rest assured of my undivided attention to all the wants of the District, and will always trust, be found a supporter of good measures, as well as of the equitable disbursement of the Public Funds.

Trusting that I will have your countenance and support at the polls,
I remain, gentlemen,
Yours truly,
ALEXANDER MARTIN.
Jan. 28, 1884.—wkly pres her.

FIRE INSURANCE.

RISKS taken on all classes of insurable property at reasonable rates.

HORACE HASZARD,
Lower Queen Street
Ch'town, Jan. 12, 84.—2w 16ft.