

*Held* also, that the circumstances under which the roadway had been used did not supply sufficient reason to infer that the way was a necessary easement appurtenant or appendant to the lands formerly held in unity of possession, which would pass by implication upon the severance of the tenements, without special grant.

Appeal allowed with costs.

*Wade, Q.C.*, for appellant.

*Harrington, Q.C.*, for respondent.

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*Coram* GIBOUARD, J.

31 December, 1896.

EX PARTE MACDONALD.

*Habeas corpus—Jurisdiction—Form of commitment—Territorial division—Judicial notice—R. S. C. c. 135, s. 32.*

A warrant of commitment was made by the stipendiary magistrate for the police division of the municipality of the county of Pictou, in Nova Scotia, upon a conviction for an offence therein stated to have been committed "at Hopewell, in the county of Pictou." The county of Pictou appeared to be of a greater extent than the municipality of the county of Pictou, there being also four incorporated towns within the county limits, and it did not specifically appear upon the face of the warrant that the place where the offence had been committed was within the municipality of the county of Pictou. The Nova Scotia statute of 1895 respecting county corporations (58 Vict. ch. 3, s. 8) contains a schedule which mentions Hopewell as a polling district in Pictou county entitled to return two councillors to the county council.

*Held*, that the court was bound to take judicial notice of the territorial divisions declared by the statute as establishing that the place of the offence mentioned was within the territorial extent of the police division.

*Held* also, that the jurisdiction of a judge of the Supreme Court of Canada in matters of *habeas corpus* in criminal cases is limited to an inquiry into the cause of imprisonment as disclosed by the warrant of commitment.