

tioned unlawfully and injuriously obstructed the highway "the same being a public highway of the district of the municipality of East Hants" by erecting a fence across the same and thereby unlawfully committed and continued to commit a common nuisance endangering the comfort of the public, "and which common nuisance did at Tennycape aforesaid . . . occasion actual injury to S. and others."

*Held*, 1. The offence charged was not one within the Code s. 192 it not being alleged that injury was occasioned to the person of any individual. But *semble* if such injury had been alleged the count would have been bad as charging two offences, one a criminal offence under the Code and one otherwise.

2. The indictment was not sufficient at common law because it did not close with the words "to the common nuisance of etc." Also, 2. Not sufficiently certain, not indicating in what way the obstruction interfered with the comfort of the public—whether to those passing along, or living near it or otherwise.

3. Nor was the locality of the obstruction described with sufficient certainty.

4. Assuming that judicial notice could be taken of the fact that the municipality of East Hants is within the county of Hants where the indictment was preferred, the same could not be said of Tennycape where the prosecutor and others were alleged to have been injured.

*Christie*, K.C., for prosecution. *Sangster*, for defendant.

Longley, J. |

LANGILLE v. ERNST.

[Oct. 29.]

*Maritime law—Collision—Damages.*

Defendant's vessel collided with plaintiff's vessel while the latter was lying at anchor in port at night. It being shewn that defendant's vessel was at fault and that plaintiff's vessel had complied with all the requirements to be observed by a vessel of her class,

*Held*, that plaintiff was entitled to recover damages, but that these must be confined to the cost of making repairs and could not include a claim for loss of fishing during the season there being no data to enable the Court to fix a sum for such loss.

*McLean*, K.C., and *Freeman*, for plaintiff. *Roberts*, for defendant.