

ST. JOHN COUNTY COURT.

Forbes, J.]

R. v. C. W. BRENNAN.

[Dec. 10, 1887.]

C. T. Act, c. 106, R. S. Can.—Sale on board steamer—Sale by agent.

The defendant is the captain and part owner of the steamer "May Queen" plying on the river St. John between the cities of St. John and Fredericton. By an agreement between the owners of the steamer and one George Brennan the latter had the right to supply and sell meals and refreshments to passengers at his own profit in consideration of discharging the duties of steward and providing the necessary help therefor. He was also paid a salary by the owner of the steamer to assist in collecting passenger fares. The Canada Temperance Act, c. 106, R.S.C., is in force in the County of Queen. While the steamer was lying at Chipman, in that county, George Brennan sold liquors on board the steamer, and an information was laid against the defendant under the above Act. By s. 100 of the Act "Every one who, by himself, his clerk, servant or agent, exposes or keeps for sale, or directly or indirectly on any pretence or by any device, sells or barter, or in consideration, etc. 2. Everyone who, in the employment or in the premises of another, so exposes or keeps for sale, or sells, or barter, or gives in violation of the second part of this Act, any intoxicating liquor, is equally guilty with the principal," etc. On an appeal from a conviction of the defendant:

Held, that the conviction should be quashed.

F. A. McCully, for the prosecution. *J. R. Dunn*, for defendant.

Province of Prince Edward Island.

SUPREME COURT.

Full Court.]

EX PARTE MORRIS.

[Dec. 13, 1897.]

Canada Temperance Act—Certiorari—Transfer of liquor in bond.

Application for certiorari to quash a conviction under the C. T. Act by the stipendiary magistrate of the city of Charlottetown.

The applicant Morris had certain liquor in the bonded warehouse with the duty unpaid. While the goods in question were in bond he transferred them to one C., who paid the duty thereon and removed them. Under these circumstances the magistrate fined Morris for an infraction of the C. T. Act.

Held (HODGSON, J., dissenting), that the conviction was right, there having been a sale when the said Act was in force.

Per HODGSON, J., that the conviction was wrong, and should be quashed. That the C. T. Act does not, nor ever was intended to apply to mercantile transactions such as this. That liquors in bond may be, and often are, retransferred out of the country, and that the transfer of bonded goods create legal obligations between the transferee and the sovereign, incompatible with the commission of a crime, which, under the C. T. Act, a sale of liquor is.

Stewart, Q.C., for rule. *Morson*, Q.C., contra.