

2 Q.B. 242 (noted ante vol. 33, p. 762) where five of the Judges of the Queen's Bench Division in a Crown case reserved arrived at one conclusion as to the meaning of a statute, and five of the Judges of the Court of Appeal in a civil proceeding arrived at a diametrically opposite conclusion as to its meaning. The criminal law in England, however, we apprehend, would be regarded as settled by the decision of the Criminal Court, and not by that of the Civil Court, notwithstanding its superior authority as a Court of Appeal. The anomaly of two courts for the administration of the criminal law arriving at opposite conclusions on the same point of law is at all events avoided there.

The present condition of things in Ontario is not only open to the serious objection that the law in one of its most important branches is liable to be rendered uncertain, but it is open to the further objection that the uncertainty of the law renders the administration of justice unnecessarily costly and burthensome to the public. In this very case of *The Queen v. Hammond*, the Judge at the trial admitted the evidence objected to, on the authority of the decision in *The Queen v. Williams*, and now the very heavy expense of a further trial has to be borne by the public. The counsel for the Crown, moreover, was placed in a position of great embarrassment. Had he neglected to offer the evidence in question he would have laid himself open to a charge of serious neglect of duty, and yet in offering this important evidence he had to take upon himself the equally serious risk of incurring the enormous expense involved by a third trial of the prisoner.

On the abstract merits of the question involved in the conflicting decisions which have been referred to, it may not be inopportune to offer some observations. With regard to the question which of the two Courts has correctly interpreted the statute, it would be presumptuous for me to offer any opinion, but it may be worth while to discuss what the law on the point ought to be. The fundamental principle of the criminal law that no man ought to be compelled to accuse himself is one that ought to be jealously