

There is some confusion in the Judge's statement. He appears to have heard the case for the prosecution only in the first case on the 27th, and postponed the defence until the 30th, and apparently he completed the trial of the second case on the 27th. It may be that this is an inaccuracy, and that the defence in both cases was heard on the 30th. But, however this may be, I think the case is not governed by *Hamilton v. Walker*, but rather by the later case of *Regina v. Fry*, 19 Cox C. C. 135, 78 L. T. 717. . . . I think we ought to accept the statement of the Judge that he came to his finding in the first case before hearing the second case, and that he is not conscious that he was biased in coming to his conclusion in the second case through the knowledge acquired in the hearing of the first and third cases. I think, too, as said by the Court in the *Fry* case, it was easy for the Judge to keep the cases distinct, having regard to the differences of time, place, and circumstances between them.

It seems proper to call attention to the observations of Wills, J., in delivering the judgment of the Court in that case as to the caution which ought to be observed in such cases (78 L. T. 717). . . .

Appeal dismissed.

OSLER, J.A., gave reasons in writing for the same conclusion, and referred to *Regina v. Sing*, 5 Can. Crim. Cas. 156, *Regina v. McBerney*, 3 Can. Crim. Cas. 339, and *Regina v. Justices of Staffordshire*, 23 J. P. 486, in addition to the cases cited above.

MOSS, C.J.O., GARROW and MACLAREN, J.J.A., concurred.

OCTOBER 26TH, 1903.

C.A.

REX v. HARRON.

*Criminal Law—Resisting Bailiff—Distress for Rent—Necessity for Proof of Rent in Arrear—Lawful Distress—Rescue before Impounding.*

Crown case reserved. The prisoners were charged for that they did resist and wilfully obstruct Michael Dillon, bailiff of the 7th Division Court in the county of Kent, in the execution of a lawful distress warrant against the goods of the prisoner John Harron. This was found to have been done by locking Dillon in the barn and rescuing from him animals under seizure by locking the gates and preventing his removal from the said premises of the animals under distress. The prisoner John Harron was tenant of certain