

absence of precision, denoting total ignorance of the mechanics of law-making, which this section exhibits, or to its grammatical construction. I refer to the last words of the section which declare that "the person so offending is to be taken before any judge of a county court or any stipendiary magistrate, police magistrate, or judge of the sessions of the peace, *to be dealt with according to the provisions of this act.*" Now, we are invited to declare that these words oust trial by jury, and place the liberty of any person accidentally going on board the wrong ship at the mercy of two justices of the peace, or of a stipendiary magistrate. It is not contended that these words are those ordinarily used for conveying jurisdiction; but, if I understand the respondent's pretention, it is assumed, that some of the dispositions of the act are of a character so contrary to the general spirit of criminal legislation, and to the institutions of this country, that we must be more readily disposed to admit it to be the intention of the legislature to create a new jurisdiction, than if the law were of a usual character.

Such a doctrine appears to me to be intolerable. A monstrous law, which, in its eagerness to reach the guilty, confounds innocence and guilt, has no spirit, and its operation must be confined to the narrowest interpretation of its words.

In the present case it is agreed that Section 87 gives almost a similar jurisdiction to the same magistrates as those mentioned in Section 86, and therefore we should infer, it was the intention of the legislature to give the jurisdiction in prosecutions under Section 86. I think the inference is directly the other way. One form of words being used in one section and another in the other, the rule of interpretation is that it was intended to convey different ideas. I therefore say that the words "to be dealt with according to the provisions of this act" are to be made coherent by supposing that the duty of the magistrates is to commit for trial as in the case of any misdemeanour.

Our attention was drawn to a case of *Trimble & Cullen*. It is a very meagre report. It does not pretend to give the words of any of the judges, and I am inclined to think any of the three learned judges who sat in that case would be unwilling to have it supposed that a jurisdiction of a totally novel kind could be given

"impliedly." What they probably said was that although not given in the usual and technical manner, the intention of the legislature to give it was sufficiently expressed in words though in a careless and slovenly manner.

The peculiar qualities of the legislator who drew this clause seem to have passed to those who have attempted to put it in force. The case before us in no respect follows the Act: (1) There is no negative averment that the appellant did not belong to the very limited privileged class who may go on board without the permission of the captain or person in charge of the ship; (2) it is not alleged that the person in charge did not give permission; (3) it is not stated that the ship was a merchant ship; (4) the accused was not brought before the magistrate. There was, then, neither jurisdiction over the person or over the subject matter. The magistrate might have as well passed sentence on the President of the United States.

These objections seem technical and unsubstantial to those who only arrive at conclusions from local views of convenience. As Richardson says, in one of his novels, "the doctrine is nothing without the example." But if the use of this foolish law is persisted in, there will be a great scandal some day. Instead of a known crimp, some perfectly innocent person will be arrested, of sufficient importance to render it dangerous to adopt the view about to be sanctioned, and then, I venture to predict, the precedent we are about to create will be swept away without hesitation.

Wise legislators sometimes pass stringent laws to check extraordinary abuses; they never confound innocence and guilt. The wisest pass reasonable laws, and endeavor to have them faithfully executed. In criminal repression, certainty is more effectual than severity.

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#### THE STAMP DUTIES.

After our last issue had gone to press, a bill to repeal the duty on promissory notes, drafts and bills of exchange, was passed through both Houses of Parliament, and received the Royal Assent March 3. It contains but one section, which reads as follows:—

"1. No duty shall be payable on any promissory note, draft or bill of exchange, made,