

The effect of these various statutes is, I consider, to protect a witness who claims the statutory protection from the liability otherwise accruing to him from his incriminating answers, and puts an end to the privilege which such a witness formerly enjoyed.

On the argument numerous cases were cited on behalf of the defendant, but they were all decisions prior to the Ontario Act of 1904.

Mr. McKay argued that the protecting statute 61 Vict. does not apply to a party to a cause, but is limited to a witness not being a party. This same point was raised in *Regina v. Fox*, 18 P. R. 343, but the Divisional Court held in that action, which was one at the instance of the Crown to recover a penalty for violation of the statute, that the defendant could be examined for discovery.

The motion for the attachment is granted with costs in the cause to the plaintiff of the motion and of the further examination of the defendant R. M. Jaffray. The attachment, however, is not to issue for ten days. If, within that time, the defendant purges his contempt by answering the questions, the order need not issue.

For the reasons set forth in the introductory part of this judgment, it is to be understood that the granting of this order is not to be construed as determining the relevancy of any of the questions objected to, but is confined to the one abstract proposition that a party to an action is not excused from answering a question on his examination for discovery on the ground that the answer may tend to criminate him.

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MARCH 8TH, 1906.

DIVISIONAL COURT.

BURROUGHS v. MORIN.

*Landlord and Tenant—Injury to Goods of Tenant on Demised Premises—Damages—Reference.*

Appeal by plaintiff from judgment of FALCONBRIDGE, C.J., dismissing action brought by tenant against landlord for damages for disturbance of possession and injury to goods on demised premises.

J. H. Clary, Sudbury, for plaintiff.

C. McCrea, Sudbury, for defendant.