

MAGISTRATES' CASES.

McDougall, Co. J.] REG. v. NURSE. [Nov. 2, 1898.
*Sale of liquor within prohibited hours—R.S.O., c. 245, s. 95—R.S.O., c. 73,
 s. 9—Proceedings at trial.*

The defendant was charged with selling liquor during prohibited hours. The prosecutor failed to establish any sale by the evidence of the witness to whom it was said the liquor was sold on the day charged. The defendant was then put in the box, and whilst denying the sale to the witness, admitted in answer to a question (which was objected to, but which objection was overruled,) that he had sold liquor to other persons on the day in question. On this evidence he was convicted.

On motion to quash this conviction,

Held, that the conviction was right, and the application must be dismissed with costs. The defendant was a competent and compellable witness, and could properly be convicted upon his own admission of a sale or sales upon the day in respect of which an illegal or prohibited sale was charged. *Queen v. Hazen*, 20 A.R. 633 referred to.

Haverson for defendant. *Raney* for the Crown.

Nova Scotia.

SUPREME COURT.

Full Court.] QUEEN v. BOWMAN. [Nov. 22, 1898.

*Criminal Code, s. 210, s-s. 2—Failure to provide necessaries for wife—
 Words "likely to be permanently injured"—Questions of fact for Judge.*

Defendant was tried and convicted by the Judge of the County Court for District No. 1 on a charge preferred under the Code, s. 310, s-s. 2, for having omitted, without lawful excuse, to provide necessaries for his wife, in consequence of which her health was likely to be permanently injured. The evidence showed that defendant who was in regular receipt of wages amounting to six dollars per week, refused to make any provision for his wife, at a time when she was pregnant and incapacitated for work.

Held, 1. There was evidence upon which the judge could properly find against the accused.

2. The words "likely to be permanently injured" have no technical meaning, and that in every case it is purely a question of fact whether the acts proved are of such a character that the health of the wife is likely by reason of those acts to be permanently injured.

3. As to the excuse set up, that it was a question of fact as to which the judge had to decide as to its sufficiency.

Power, for the prisoner. *Longley*, Attorney-General, for the Crown.