

REVIEW OF CURRENT ENGLISH CASES.

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CRIMINAL LAW—EVIDENCE—WIFE OF PERSON CHARGED COMPELLABLE WITNESS—CRIMINAL EVIDENCE ACT, 1898 (61-62 VICT. c. 36), s. 4.

Leach v. Rex (1912) A.C. 305 deserves to be noticed as marking a distinction between Canadian and English law in a matter of evidence on criminal prosecutions. By the Evidence Act, 1898, s. 4, a wife or husband "may be called as a witness either for the prosecution or defence and without the consent of the person charged" in, among other cases, prosecutions for incest. In this case the appellant was indicted for incest and his wife was called as a witness in support of the indictment. She objected to give evidence, but Pickford, J., the presiding judge, ruled that she was compellable to give evidence and directed her to give evidence which she did, and this ruling was upheld by the Court of Appeal (Lord Alverstone, C.J., and Hamilton, and Bankes, JJ.), but the House of Lords (Lord Loreburn, L.C., and Lords Halsbury, Macnaghten, Atkinson, Shaw and Robson) have reversed the decision, holding that though the wife was a competent witness, yet, in the absence of explicit words in the statute to that effect, she was not compellable. Under R.S.C. c. 145, s. 4, in such circumstances husbands and wives are both competent and compellable witnesses.

ADMIRALTY—SHIP—COLLISION—LAUNCHING VESSEL—NEGLIGENCE
—TAKING LESSER OF TWO RISKS.

The Frances v. The Highland Loch (1912) A.C. 312. This was an admiralty action to recover damages for a collision which took place between the plaintiffs' and defendants' vessels in the following circumstances. The "Highland Loch" was about to be launched on the Mersey, and the defendants arranged with the owners of a buoy which was in the way to remove it, which was accordingly done, but its mooring chains were left at the bottom of the river. The "Frances," which was sailing up the river, finding the wind failing her, let go her anchor, which caught in the mooring chains of the buoy. The defendants notified the plaintiffs to get the "Frances" out of the way of the launch and suggested slipping its anchor, but the master, unable to free his anchor, refused to slip it, unless the defendants agreed to be