

mouth of Bear River, and close in with the land. His brother lives in the immediate neighborhood of Bear River; went to his house. The captain, mate and some of the crew came to the house. The captain seemed greatly distressed, and together with the mate explained how the vessel had been wrested out of their hands, and asked witness if there was no remedy. Witness told them he was sure the law would protect them; he sent to Mr. MacDonald's for a copy of the laws. Mr. MacDonald came with it himself, when witness explained the law to them as well as he could. On going out soon afterwards he was informed that a person wished to see him in another room. On going there he found it was the prisoner Burns. He stated that he considered the vessel his property. Witness asked him if he was not one of the crew, to which he said he was not; that he had not signed the articles and was merely a passenger—that in what he had done he had acted under authority, and that he had taken the vessel as a lawful prize on the high seas. Witness endeavoured to combat his opinion but Burns told him that he would find it in page 409; and that he knew the law. Witness then left him; in coming away in the evening saw Burns again outside. He still persisted that the vessel was his. He said: 'I expect to see her on those rocks (pointing towards them) before morning.' Witness remarked that if such should unfortunately turn out to be the case, that he hoped he would do all in his power to assist the captain and mate, for the preservation of the property, to which he replied: 'Never disobey orders.'

"Cross-examined by Mr. Burns—The captain and mate appeared to be younger men than Burns. He did not appear to yield to the arguments used by the witness. He seemed to think that he had a right to the vessel.

"Re-examined by the Attorney-General—Burns said the wind was springing up, and he expected to see her on the rocks in the morning, adding, 'I ought to know something about it after twenty years experience.'

"Donald McCallum, examined by the Solicitor-General—Went on board the Acteon the evening she came to an anchor in St. Margaret's Cove, and remained on board all night, with the wind on shore; and as the gale continued to increase all hands left the vessel and went on shore next morning. Burns was on the beach when they landed. He asked his crew, as he called them, why they had left the ship, and told them to get ready for going on board again, as he would go with them. He then called witness aside, and said, 'when you see the ship driving on shore, I will throw over a keg or a buoy with a line to it—do you stand by and make it fast on shore.' He then got into the boat, and with his crew attempted to push off to the vessel, but could not reach her owing to the surf, and had to put back.

"Cross-examined by Mr. Binns—Cannot say what Burns meant by asking him to make fast the rope when he saw the vessel driving—it might have been to save their lives. Witness left the vessel, fearing to stay longer on board of her."

Here the Attorney-General intimated that the case for the Crown was closed.

Mr. Binns trusted there would be no objection to his addressing the jury on behalf of the prisoners. By an Act of the last session of the Colonial Legislature, persons charged with criminal offences were to have all the benefit of Council, the same as in civil cases. To be sure, the Act did not go into operation until August next, but he