

attention, and resulted in the Act 9 Vic. ch. 58, which provides for the future payment of the expenses of criminal justice in Upper Canada, out of the public funds of the Province.

It does not fall within our province to examine the expediency and political necessity for this Act. We purpose merely to draw attention to the Law as it stands, and the administration of it which rightly or otherwise, has caused much dissatisfaction to the County Municipalities in Upper Canada. If the act has not been fairly construed, a partial remedy exists without fresh legislation. If it have received the liberal and beneficial construction it is entitled to, the legislature alone can grant adequate redress to the people of Upper Canada.

Before proceeding to examine the Act, we would observe that there are certain fixed principles which must guide in the exposition of a written law, and that neither the Government nor the Courts of Justice may depart from the rules of interpretation which the law has firmly established. It is neither the province nor the right of a Judge, (much less the head of a department), to determine on his individual private views. The judicial mind in which the law is said to repose is quite distinct from his personal conscience. The party undertaking to determine the scope and effect of a statute, and with power to act on such construction, assumes the office of a Judge; so let it not be said that the principle will not apply to the heads of departments, or the public functionaries—they are bound by the same rules which prevail in the Courts—they must pursue precisely the same process in arriving at the meaning of the Legislature. An absolute power to pronounce, would be manifestly unconstitutional and dangerous in the highest degree—it does not exist. With the aid then of the recognized principles of construction, we proceed to examine the Act in detail.

The Statute is entitled "*An Act for defraying the expenses of the Administration of Justice in criminal matters, in that part of the Province formerly Upper Canada.*" The preamble reads thus, "Whereas it is expedient to provide that the expenses of the administration of criminal justice in Upper Canada, now paid by local taxation, shall in time to come be paid out of the public funds of this Province, under the provisions hereinafter made."

"That the expenses of the administration of criminal justice, &c." \* \*

We do not pause to consider the meaning of the word "*administration*" in the connection here used,—it always has the same signification—the act of administering, conducting, dispensing.

"Administration of *criminal justice.*" These terms are commonly and appropriately used in contradistinction to administration of justice in *civil* matters, and it is submitted are so employed here. Jurisprudence is divided into two great departments—comprehending matters *criminal*, and matters *civil*—the one treating of and embracing the relations of men to the supreme power in the State, and to each other in those things which concern the State—the other—the relations of men to each other—in other words—*Public* wrongs and *private* wrongs, crimes, and civil injuries. Public wrongs or crimes "are a breach and violation of the public rights due to the whole community, considered as a community in its social aggregate capacity." Private wrongs "are an infringement and privation of the civil rights, which belong to individuals considered as individuals." Public wrongs or crimes fall within the *first* department—private wrongs or civil injuries within the *second*. The main object of law is the prevention and punishment of crime, and this is comprehended in the terms—"administration of criminal justice." The power to prevent as well as punish crime is given to inferior tribunals, or to particular functionaries, as well as to the Superior Courts of criminal jurisdiction, and when exercising this power these tribunals or functionaries are engaged in the administration of criminal justice.

"*Now paid by local taxation.*" As before remarked, all these expenses were before the passing of the act, 9 Vic. paid out of the County funds under the act of 1792, U.C. adopting the body of the English law, or under some act of the Parliament of Upper Canada or of this Province, making some special provision concerning them. The words, "now paid by local taxation," are evidently not intended as descriptive of the particular kind of expenses which are before accurately and plainly stated, but merely as a statement of fact in connection with the after alteration or remedy,—“shall in time to come be paid out of the public funds of this Province.”

The Legislature announced the remedy designed,