

CRIMINAL LAW—EVIDENCE OF CRIMINAL ACTS OTHER THAN THOSE CHARGED, WHEN ADMISSIBLE—(CRIMINAL CODE, s. 746 (f)).

Makin v. Attorney-General, (1894) A.C. 57, is an appeal in a criminal case from New South Wales, in which the question involved was how far evidence tending to show that the accused had been guilty of criminal acts other than those charged is admissible. The Judicial Committee determined that such evidence is only admissible upon the issue whether the acts charged were designed or accidental, or to rebut a defence otherwise open to the accused. In the present case the prisoners were convicted of the wilful murder of an infant, which the evidence showed they had received from its mother on certain representations as to their willingness to adopt it, and upon payment of a sum inadequate for its support for more than a very short time, and whose body had been found buried in the garden of the prisoners' house. The evidence objected to went to show that the prisoners had received several other infants from their mothers on like representations and terms, and that bodies of several infants had been found buried in the gardens of houses occupied by the prisoners. Their lordships held that this evidence was relevant to the issue which had been tried. They also took occasion to express views as to the effect of a provision in the New South Wales criminal law, somewhat similar in its terms to the Canadian Criminal Code, s. 746 (f), and declare that it does not, in their opinion, authorize an appellate court to affirm a conviction where improper evidence has been secured, unless it is of a purely formal character, and could not possibly have influenced the verdict.

Notes and Selections.

TELEPHONE—AFFIDAVIT—IDENTIFICATION.—It was held last month by the New York Court of Appeal, in *Murphy v. Jack*, that since it is possible to recognize a person's voice at the other end of a telephone an affidavit based upon such a conversation is admissible, and is sufficient to justify the court in acting upon such an affidavit, if it is made to appear that the deponent was acquainted with the person at the other end of the telephone and recognized his voice, or if it appeared, in some satisfactory