THE

# Canada Law Journal.

VOL. XXX. FEBRUARY 16, 1894. No. 3

UNDER the late Rule (of November 4th, 1893), the question of costs is likely to be a material one in many classes of cases. The matter of costs is now entirely in the discretion of the judge, although the case is tried by a jury. The first instance of the radical change that has been effected was a libel case tried at the present Toronto Assizes before Street, J., and a jury. The plaintiff recovered a verdict of $5. As the Rules formerly stood, and as libel actions can only be brought in the High Court, any verdict, however small, carried full costs of suit. In this case, although the defendant was found liable and the plaintiff recovered $5 damages, the learned judge held that, in the exercise of the discretion given by the new Rules, it was not a case for costs. The result will likely be that in all libel and slander actions tried hereafter, unless there are some exceptional circumstances, the plaintiff will not get his costs where the verdict is a nominal one.

---

OUR namesake in England calls attention to a case in which an innocent man was placed in a very unfair position by not being allowed to testify on his own behalf. At the request of his counsel, however, he was allowed to make a statement to the jury, and the jury apparently believed his explanation and acquitted him. The tide is turning in the direction of similar legislation to that introduced by "*The Canada Evidence Act*, 1893," in which, as in some other matters, we have set an example, afterwards followed in England. We notice that Mr. Justice Hawkins, in a case recently tried at the Old Bailey, stated that he was strongly in favour of allowing a prisoner to give evidence on oath. We believe the first trial of importance in this Province under the new law was a murder case