

of the prisoners as rendering them more likely to give way to passion.

5. That the use of the words "malice or ill-will" throughout the charge, in relation to the reason which led the prisoners to act as they did, was prejudicial to the prisoners, being calculated to give the impression to the jury that any grudge which the prisoners bore to the deceased was equivalent to "malice" which would make the crime murder rather than manslaughter.

*Roscoe*, K.C., for the prisoners. *Jenks*, K.C., Deputy Attorney-General, and *Wickivire*, K.C., for the Crown.

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Full Court.]

[Dec. 20, 1912.

BALL v. SYDNEY AND LOUISBURG RY. CO.

*Railway—Interference with access to spring—Rights of licensee.*

Defendant company in constructing their line of railway and fencing in their right-of-way, which they had a statutory right to do, interfered with the plaintiff's access to a spring on land of the Intercolonial Railway which he was permitted to use as a mere licensee.

*Held*, that no damages were recoverable for such interference.

*Mellish*, K.C., for appellant. *J. P. Ralston*, and *C. McKenzie*, *contra*.

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Full Court.]

DOREY v. DOREY.

[Dec. 20, 1912.

*Alimony—Special jurisdiction conferred on Supreme Court—Not extended beyond terms of statute—Procedure of divorce court—Not applicable to Supreme Court.*

Chapter 64 of the Acts of the Province of Nova Scotia as amended by c. 35 of the Acts of 1904, conferring upon the Supreme Court the right to grant alimony in certain cases and upon the happening of certain circumstances cannot be extended to the granting of alimony *pendente lite*, the jurisdiction conferred being a statutory one and that power not being specifically mentioned. The provisions and procedure of the Divorce Court are not applicable to the Supreme Court.

*Roscoe*, K.C., and *Russell*, for plaintiff, applicant. *Mellish*, K.C., *contra*.