

clearly defined term, either by statute or practice, but which in its most limited sense, is understood to mean until all the names of the "panel" have been once "called over."

As a matter of practice, the Crown exercises its right to "stand aside" first, and does not commence to challenge "peremptorily" until the panel has been "exhausted."

This is precisely what happened on the trial of Sir Francis Hincks. The private prosecution, in the exercise of an undoubted right, as the law stands actually plied their "stand aside" until the panel was exhausted, and after this used three of their four peremptory challenges. Sir Francis challenged several jurors successfully for cause, but only challenged two jurors "peremptorily."

In private prosecutions before the criminal courts, it may be gravely questioned how far, if at all, the right of "stand aside" should be extended. Why should one private individual by temporarily transforming his identity, improvise the rights and privileges of the Crown against another individual? Anciently, the right of "stand aside" was a great protection in excluding from the jury persons tainted with treason, and in later years in England the only protection against its misuse in ordinary cases has been the honour of the Attorney-General, or his nominee, representing the Sovereign.

In cases, however, where private counsel appear to prosecute on behalf of clients, who are not the Crown, and particularly when there may be any radical prejudices abroad in the community, the rights of defendants may be seriously endangered. Our Parliament has recognized this in the statute providing for the trial of criminal libel. The private prosecutor in such cases is deprived of the right of "stand aside," and remains on an equality with the defendant.

It is easy to see how the right of a man to obtain a fair trial may be prejudiced by a private individual usurping the rights of the Crown.

According to my view of the subject, in all prosecutions not instituted by the Crown, the ancient right of stand aside should be abolished. Indeed, I can at present see no reason why it should not be abolished in the trials of all misdemeanours and of felonies not punishable with death. But I commend the whole subject to the consideration of the Minister of Justice, whose duty it is to see that the machinery of the law is not used to prevent an accused citizen obtaining a "fair and full defence."

#### SETTLED AT LAST.

At last, and after much waiting, we have the full Pronunciamento of Sir M. Hicks-Beach on the Letellier *coup d'etat*, and I may be allowed to remind my readers that the position taken in the SPECTATOR at the time, and in the SPECTATOR only of all newspapers, is fully maintained. "Quis," writing under the date of April 6th, said: "If in any ordinary matter a person is found claiming to represent another, he is asked to produce his power of Attorney. If any one should doubt whether Lord Dufferin represents the Queen, he can produce the Queen's commission. If the Lieutenant-Governor of Quebec represents the Queen, and claims any of her prerogatives, let him produce his commission from Her Majesty. He is not appointed by the Crown, but by the Dominion Ministry of the day. He is not responsible to the Crown, but to the Ottawa Government. The Crown has absolutely no control over him, but the Government of the day at Ottawa has." Of course our numerous and well-informed daily papers took no heed of this common-sense, and—as it turns out—correct interpretation; they were too furiously fighting for party gains to think and discuss a simple question of law.

The peculiarity of the case is this, although the despatch from the Colonial Secretary advances a theory the daily papers never so much as dreamed of, not one of them acknowledges to have been off the scent. On the contrary, they accept the decision as if it met their views entirely, and closed a discussion in which they knew all the time what the official ending would be. The *Globe* says: "It is, of course, gratifying to the Liberal party of Canada to find that their views on the Letellier dismissal are sustained by the Imperial authorities"; but, as a matter of fact, the views of "the Liberal party" are no more sustained than are the views of the Conservative party. The Colonial Secretary declares that M. Letellier had the power to dismiss his Ministers, which nobody questioned or could question, since it was

a *fait accompli*; and he says that the power to dismiss a Lieutenant-Governor rests with the Dominion Cabinet,—which the *Globe* and "the Liberal party" never did see.

So it follows that Dr. Robitaille may at any time, now or when the Legislative Assembly returns to work, dismiss M. Joly and his friends from office, and ask M. Chapleau to form a Cabinet. It would be done under orders from Ottawa, and sustained, of course. The Governor-General could do nothing, for he can only act upon what may be decided "in council;" and the Colonial Secretary tells him he had better do anything and everything he is advised, promptly, so as not to trouble the Home Authorities over much. Free Trade England is disgusted with Protection loving Canada, and gives advice with a very evident lack of interest and sympathy; so that we are thrown back upon ourselves. And this is made clear, that we have so many political "rights," which must necessarily come into conflict, and so many different kinds and degrees of power, that our present multiform governments cannot last much longer.

As the *Saturday Review* well puts it:—The functions of a Lieutenant-Governor, as defined by Sir M. Hicks-Beach, seem ingeniously contrived to make the exercise of them needlessly difficult. He has 'an unquestionable constitutional right' to dismiss his Ministers; in the exercise of this right 'he should maintain the impartiality towards rival political parties which is essential to the proper performance of the proper duties of his office;' and for any action he may take he is directly responsible to the Governor-General. The conflict of rights and duties here is curious. The Lieutenant-Governor stands in the same passionless position towards his Ministers as that in which the Governor-General stands towards his. But whereas the Governor-General is appointed by the Crown, without regard to Canadian politics, the Lieutenant-Governor is virtually appointed by the Dominion Ministry, and is responsible to them for his use of the powers vested in him. Now that the precedent of dismissal has once been set, it will be surprising if it is not frequently followed. The Canadian Cabinet will not, of course, allow the politics of a Lieutenant-Governor to weigh with them in judging whether he used his power wisely; but it will probably be discovered that a right political action is seldom found except in conjunction with a right political faith.

#### LIBEL.

Two or three of the Montreal daily papers are at present under criminal charge for libel, and no wonder, for our press deals with personal character in a rough-and-ready way. But we may as well confess that they do but reflect and express the general tone of our society. In private life men, and women too, often cast dirt about in a reckless and rascally way. I know persons whose only recreation seems to be in making effort to blacken the character of those against whom they have conceived a prejudice. And yet those same revilers are well known as livers in glass houses. The only reasonable way of accounting for the anomaly is that they wish to distract attention from themselves by their constant abuse of others. The best method to adopt for cleansing the press of this evil is for men and women to cast the thing out of private life. And some of us must begin the work vigorously. How shall we do it?

#### ASYLUMS.

An enquiry is being made into the management of the Longue Pointe Asylum. The Nuns and the Directors have quarrelled, and it is said that the former object to the liberation of persons who have been incarcerated, even after they have been pronounced convalescent. The system of farming out either lunatics, criminals or paupers is decidedly objectionable and should be put a stop to at once.

*Apropos* of the question of Asylums, it is a fact, although very few persons in Canada are aware of it, that at Tracadie, in New Brunswick, there is an Asylum for lepers. I am creditably informed that members of families in which this fearful disease has developed itself are allowed to marry—they being, of course, apparently healthy; but the future results of such marriages must be disastrous in the extreme.