

## The Legal News.

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Mr. Justice Stephen, at Manchester, on January 13, made some observations of importance with reference to the right of a prisoner, though represented by counsel, to make a statement to the jury. One Herbert Masters was on trial for assaulting a girl over sixteen. His counsel commented on the fact that the prisoner could not give evidence. Thereupon the learned judge observed:—"For years it has been my opinion—and I shall continue to act upon it—that prisoners, though defended by counsel, have a right to make statements. I always, therefore, allow a prisoner to say what he pleases on his own behalf, provided he make such statement before his counsel speaks, which prevents its being a mere corroboration of counsel's suggestions. I think the law of the land justifies this course, though the authorities on which I adopt it might not, perhaps, be satisfactory to other minds than mine. If a suitable occasion occurs I will give my reasons at length. But the practice is not uniform, there being no superior authority to make it so, and the matter is at present in an unsatisfactory condition. The late Act, which has apparently worked well hitherto, allows prisoners in certain cases to give evidence on oath, but it has left the law in so fragmentary a condition that I hope Parliament will deal with the question before long. The prisoner in this case, therefore, may make a statement if he wishes. If he does not, it should not prejudice him before the jury, as he has not had notice that he might do so." The prisoner then made a short statement denying his guilt, after which his counsel addressed the jury.

During the January appeal term at Montreal 21 cases were heard. Of these two were re-hearings, and three were privileged cases, so that the ordinary list was reduced by only 16. One appeal was dismissed on motion. Judgment was rendered in 18 cases. A

clearance was made of all the *délibérés* remaining from the November Term, and three of the cases heard during the January Term were also disposed of, so that only 18 cases remain for judgment in March.

We suppose that judges for the most part are more competent than juries to appreciate damages, and at any rate both lawyers and clients, in ninety-nine cases out of a hundred, prefer to leave the matter in the hands of the Court. But there is this difference, that each judge acts singly and upon his individual opinion, whereas the jury have to agree upon an amount. It is not surprising, therefore, that the question of damages is not always viewed in the same manner. The Court of Appeal seems to think that the judges in the Court below are inclined to be too liberal. Sir A. A. Dorion expressed regret, in the course of a judgment on Wednesday, at the disposition which appeared to exist, on the part of some of the judges of the Superior Court, to award excessive damages. In one case the amount was cut down from \$6,000 to \$2,500, for the loss of a husband whose earnings during the summer season were proved to amount to \$14 per week. In other cases where the amount involved is not large, the Court finds it difficult to disturb the award without actually punishing the plaintiff who has come into court with a good ground of action; for if the plaintiff be condemned to pay the costs of the appeal, or even to bear his own costs in appeal, the result will often be that the amount of the judgment in his favor will be insufficient to defray the expenses.

The succession of more exciting events has diminished the interest in the Bradlaugh controversy. That gentleman, however, has at last been permitted to go through the form of taking the oath, and it remains to be seen whether the government will prosecute him for sitting and voting. His case is still pending before the House of Lords. The Speaker's refusal to interfere with him in taking the oath is not in accordance with previous rulings, and seems to indicate that for the present he will be allowed the privileges of membership.