

of opinion among us with regard to the weight that attaches to malice aforethought.

The JUDGE—That is the whole crime, gentlemen.

The same JURYMAN—There are quite a number of us who are of opinion that there could be no malice in the matter. We were all agreed on that point as far as regarded malice, but we considered that the evidence entitled us to bring in this verdict.

The JUDGE—That won't do, gentlemen. You must retire and reconsider the verdict. The law says if a person designedly uses a weapon which is calculated to take life, that would be murder; but the law also says this: That when two persons are fighting together, and one of them uses a weapon by which the life of the other is forfeited—unless one of them did it premeditatedly, and not on the spur of the moment—he would be guilty of manslaughter, and not murder. You had better retire, gentlemen, I could not accept that verdict.

The jury again retired, but were immediately recalled, and his Lordship said that if their recommendation was based on the point that they doubted whether or not there was malice, they should bring in a verdict of manslaughter. If they persisted in the verdict of wilful murder he would be compelled not to accept it, but would consult his brother Judges regarding it.

After being absent half an hour the jury returned with a verdict of "Manslaughter."

### THE GOVERNOR GENERAL.

An *Extra* of the *Canada Gazette*, of date Oct. 23, says:—

On this day, at nine o'clock in the forenoon, His Excellency the Most Honourable Henry Charles Keith Petty-Fitzmaurice, Marquis of Lansdowne, in the County of Somerset, Earl of Wycombe, in the County of Bucks, Viscount Caln and Calstone in the County of Wilts, and Lord Wycombe, Baron of Chipping Wycombe in the County of Bucks, in the Peerage of Great Britain; Earl of Kerry and Earl of Shelburne, Viscount Clanmaurice and Fitzmaurice, Baron of Kerry, ~~Ilx~~naw, and Dunkerron, in the Peerage of Ireland, proceeded to the Chamber of the House of Assembly, of the Province of Quebec, in the City of Quebec.

His Excellency having been by Commission under the Royal Sign Manual and Signet, dated at *Osborne House*, Isle of Wight, on the 18th day of August last, constituted and appointed by Her Majesty, Governor General in and over Her Dominion of Canada, took the prescribed oaths before the Honourable Sir William Johnston Ritchie, Knight, Chief Justice of the Supreme Court of Canada, a Court of Record of Her Majesty in Canada, by whom they were tendered and administered to His Excellency.

The same *Extra* contains the following appointments by His Excellency:—

Major the Viscount Melgund, to be Secretary and Military Secretary to the Governor General of Canada.

Lieutenant Henry Streatfield, Grenadier Guards, to be Aide-de-Camp.

Lieutenant, the Honourable Henry James Anson, Highland Light Infantry, to be Aide-de-Camp.

### NOTES OF CASES.

#### SUPERIOR COURT.

MONTREAL, October 31, 1883.

Before JOHNSON, J.

LAWRENCE v. RYAN.

*Goods seized by Customs Officers—Notice of Claim—40 Vic. c. 10, s. 111.*

*Where goods are seized by the Customs authorities, and the owners wish to claim them, notice in writing of claim must be given within one month from the day of seizure.*

PER CURIAM. The defendant is collector of customs at this port, and the plaintiff sues him as such, giving the month's notice of action required in cases against public officers.

The declaration avers that about the 28th of December last two books, one being the philosophical works of Voltaire and the other Paine's "Age of Reason," were entered in the Custom House as the plaintiff's property, and for the purpose of allowing the defendant to levy on them such duty as the law directs. That the defendant illegally refused to deliver them, though the proper Customs duties were duly offered, and that he still illegally keeps them. Then, there is an allegation that the defendant has injured the plaintiff in the eyes of the public by creating an impression that he was importing immoral and indecent books, and has thereby caused him damage to the extent of \$102. That the books in question are not immoral or indecent; and the conclusion is that "the said defendant be adjudged and condemned to deliver to the plaintiff the said two books within fifteen days from the date of the judgment, upon payment and tender by the plaintiff of the dues and Customs duties on the same, and that the defendant be also condemned to pay a sum of fifty dollars to plaintiff, for the illegal detention of the said books, and for damages suffered as aforesaid; and that in default of the said defendant delivering over said books within said delay, he be condemned to pay and satisfy unto plaintiff the sum of one hundred and two dollars, with interest and costs."

There is confusion in this declaration. First, it says that the plaintiff has suffered \$102 damages by being supposed, in consequence of the defendant's illegal conduct, to have imported