

SPECIAL LEAVE TO APPEAL TO KING IN COUNCIL—MARTIAL LAW—CIVIL TRIBUNAL.

In *Marais v. General Officer Commanding* (1902) A.C. 109, an application to the Judicial Committee of the Privy Council was made by a person who had been arrested and detained in custody by the military authorities in South Africa for leave to appeal to the King in Council. It appeared that martial law had been proclaimed where the defendant was arrested, but that there were civil tribunals open in the proclaimed district competent to deal with the alleged offence with which the defendant was charged. Leave to appeal was refused, the Judicial Committee (the Lord Chancellor and Lords Macnaghten, Shand, Davey, Robertson, Lindley and Sir H. DeVilliers) being of opinion that the fact that civil courts were open did not displace or abridge the power of the military commandant. Their Lordships' judgment concludes with the observation: "The framers of the Petition of Right knew well what they meant when they made a condition of peace the ground of the illegality of unconstitutional procedure." The soundness of this observation has been contested, but we notice that the editor has appended a note in which he says: "It is a matter of historical fact that there was not any state of war at the time and places of the acts complained of in the Petition of Right." From which it would therefore appear that the Lord Chancellor's judgment is well-founded, and that the framers of the Petition of Right had in their minds martial law exercised in a time of peace.

WATER—WATERWORKS COMPANY—"DOMESTIC PURPOSES."

Pidgeon v. Great Yarmouth Waterworks Co. (1902) 1 K.B. 310, was a case brought against a waterworks company incorporated under a special Act for not supplying water to the complainant pursuant to the terms of the Act. The facts as appeared by the case stated by the justices were as follows: The Act required that the defendants should at the request of occupiers of houses furnish them with a supply of water for domestic purposes "at specified rates," but provided that a supply for domestic purposes should not include a supply for any "trade, manufacture or business," and that the company should supply water for other than "domestic purposes" upon such terms and conditions as should be agreed upon between them. The complainant kept a boarding house, the house contained ten bedrooms, two water closets, but no fixed