to have been given in error. His Honor referred to the case of *Whitney* v. *Clarke*, 3 L. C. J. 318, and 9 L. C. J. 339, as to a clerk giving evidence in explanation of a receipt, and in accordance with the decision in that case held that the evidence was admissible, as well as that of the plaintiff's attorney. The receipt having been proven an error, it remained with the defendant to show that he had paid the whole of his rent up to the date in question; but that the defendant entirely failed to do, though the case was in his own hands, and he had full opportunity afforded him to prove it.

Judgment for plaintiff.

H. Abbott for plaintiff.

C. H. Stephens for defendant.

RECENT CRIMINAL CASES.

New trial—Irregularity in reception of verdict.—Late at night a jury reported to the Court that they could not agree, but the Court sent them back for further consultation. Soon afterwards they brought in a verdict of guilty; but, when polled, one of them said "it was his verdict because it had to be." The Court informed him that he could not be forced to agree to a verdict, but must say whether the verdict was his or not; whereupon he said, "It is, but not without doubts." The Court again required him to say whether the verdict was or was not his, and he then said it was; and the jury collectively avowing the verdict, it was received by the Court. This action of the Court was assigned as cause for new trial, supported by affidavits of said juror and two others, intimating coercion. *Held*, that the Court below did not err in refusing a new trial. (Tex. Ct. of App.) *Gose* v. *State*, 6 Tex. App. 121.

Change of venue.—An application for a change of venue, both on account of local prejudice and of prejudice of the judge, having been refused, the judge stated, when a juror was challenged for cause, "I intend to give the defendant a better jury than he is entitled to." *Held*, that the application on account of prejudice of the judge should have been granted. (Iowa Supreme Court), *State* v. *Read*, 49 Iowa, 85.

Libel—Jurisdiction of Justice upon hearing—Truth of libel not a subject of inquiry before Magistrate.—Upon an information for maliciously publishing a defamatory libel under the 5th Section of (Imperial Statute) 6 & 7 Vict. c. 96, the magistrate has no jurisdiction to receive evidence of the truth of the libel, inasmuch as his function is merely to determine whether there is such a case against the accused as ought to be sent for trial; and a defence based upon the truth of the libel under Sect. 6 of the Act, can only be inquired into at the trial upon a special plea framed in accordance with the terms of that section. *Queen* v. *Carden* (English High Court of Justice), L. R. 5 Q. B. D. 1.

Larceny of lost property.—The finder of lost goods which have no marks by which the owner could be identified, and who does not know to whom they belong, is not guilty of larceny, even if he does not exercise diligence to discover who the owner of the goods may be. *State* v. *Dean* (Iowa Supreme Court), 49 Iowa Reports.

Rape.—To constitute rape it is not essential that the female shall make the utmost physical resistance of which she is capable. If, in consequence of threats and display of force, she submits through fear of death or great personal injury, the crime is complete. *State* v. *Ruth* (Kansas Supreme Court), 18 Am. Law Register (N. S.) p. 578.

Evidence—What questions call for expert testimony.—The question whether a piece of paper picked up near the scene of an alleged homicide by shooting, appeared to have been used as wadding for a gun, is not a question calling for the opinion of an expert. *Manke* v. *People* (New York Supreme Court), 17 Hun 410.

TRIAL.—A verdict will not be disturbed because it does not specify the count under which the defendant was found guilty, when it is supported by one good count in the indictment.—*State* v. *Testerman*, (Missouri Supreme Court) 68 Mo. 408. [This point was differently decided by the Court of Queen's Bench, Montreal, *Reg.* v. *Baix*, 23 L. C. J. 327.]

ERRATUM.—At the foot of p. 129 (last issue), a line was inadvertently dropped from the type. The clause should read:—"With such counsel as Mr. Benjamin, whose career at the *English bar has been so brilliant, might be* deemed well nigh impregnable."